

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.139 of 2017  
and Crl.M.P.No.1497 of 2017

J.Prem Kumar ..... Petitioner/Respondent

Vs.

1. Mrs.Sandhya

2. Master P.Dhaswanth

[Rep by Mother and Natural

Guardian the 1st Respondent] ..... Respondents/Petitioners

PRAYER: Criminal Revision filed under Section 397 r/w 401 of Cr.P.C. to call for Records in the order passed by the learned Principal Family Court, Chennai in M.P.No.878 of 2013 in M.C.No.367 of 2012 on 19.10.2016 .

For Appellant : Mr.A.D.Jagadish Chandra

For Respondent : Ms.C.Shyamala

ORDER

This revision is filed by the petitioner/husband against the order passed by the learned Principle Family Judge, Chennai, in M.P.No.878 of 2013 in M.C.No.367 of 2012 on 19.10.2016, granting interim maintenance.

2.Earlier, the respondent/wife filed a petition under Section 125(3) Cr.P.C seeking maintenance of Rs.20,000/- for the first respondent and Rs.10,000/- for the second respondent/son in M.C.No.367 of 2012, on the file of the Principal Family Court, Chennai. Pending maintenance case, the respondents filed an interim application in M.P.No.878 of 2013 seeking for an interim maintenance and litigation expenses. The Principal Family Judge, by an order dated 19.10.2016 directed the petitioner to pay a sum of Rs.8,000/- per month to the first respondent and a sum of Rs.5,000/- per month to the second respondent as interim maintenance from 05.09.2013 and a sum of Rs.5,000/- as one time litigation expenses. Challenging the above order, the petitioner/husband filed the present revision.

3.Heard Mr.A.D.Jagadish Chandra, learned counsel appearing on behalf of the petitioner and Ms.C.Shyamala, learned counsel appearing on behalf of the respondents.

4.The learned counsel for the petitioner submitted that the petitioner is a loadman and he is only deriving meager income, without considering the same, the Family Court fixed his income as Rs.30,000/- per month and ordered interim maintenance at the rate of Rs.13,000/-p.m. totally to both the respondents, which is very much on the higher side and the petitioner has no means to pay such maintenance.

5.Per contra, learned counsel for the respondent would submit that the petitioner is not working as loadman but working in his sister's concern which is a Transport company and earning Rs.50,000/- p.m. In the above circumstances, the interim maintenance ordered by the Court below is very reasonable and has no reason to interfere with the well considered order passed by the Court below.

6.I have considered the rival submissions made by the learned counsels and perused the materials on record.

7.Even though, the learned counsel for the respondent claims that the petitioner is working in a Transport Company and earning Rs.50,000/- per month, there is no material available on record to prove the same. The Court below without considering this fact has fixed the petitioner's monthly income as Rs.30,000/- per month and ordered maintenance of Rs.13,000/- p.m. for the respondents.

8.In the above circumstances, considering the fact that it is only an interim maintenance ordered by the Court below and also there is no materials available on record to show that the petitioner is earning Rs.30,000/- p.m., and the respondents are the wife and the son and they have no other source of income and no means to maintain themselves, the interim maintenance ordered by the Court below is modified to Rs.5,000/- p.m. to each respondent.

9.Therefore, the petitioner is directed to pay a total sum of Rs.10,000/-(Rupees Ten Thousand only) towards interim maintenance for the respondents every month on or before 5<sup>th</sup> of every English Calender month and also to pay a sum of Rs.1,70,000/- towards arrears of maintenance within a period of four weeks from the date of receipt of copy of this order. It is also submitted that the petitioner had already deposited Rs.30,000/- and on payment of the remaining arrears amount as

ordered by this Court, the respondents are permitted to withdraw the entire arrears amount deposited by the petitioner. Since, the maintenance case is pending from 2012, the Family Court is directed to dispose of the M.C.No.367 of 2012 on or before 30<sup>th</sup> June 2017. Accordingly, this Criminal Revision is disposed of. Consequently, connected miscellaneous petition is also closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rm  
To

The Principal Judge,  
Family Court, Chennai.

+1cc to Mr.A.D.Jagadish Chandira, Advocate Sr.19991  
+2cc to M/S.C.Shyamala, Advocate Sr.20300

Criminal Revision No.139 of 2017  
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srg 24/04/2017



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