

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2017

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THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.OP.No.8237 of 2017

Indhraniammal .. Petitioner

Vs.

Kalidoss ... Respondent

Prayer:- Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and set aside the order dated 25.01.2017 made in CRP.No.14 of 2016 on the file of the learned Additioal District Court No.3m Dharapuram, confirming the order dated 31.5.2016 made in M.C.No.13 of 2012 on the file of the learned Judicial Magistrate No.1, Udumalpet.

For Petitioner : Mr. D.R.Arun Kumar

For Respondent : Mr.Govindarajan
Additional Public Prosecutor

ORDER

The petitioner is the mother of the respondent herein. Initially, the petitioner had filed a petition in M.C.No.4 of 2007 seeking for maintenance of Rs.1,000/- under Section 127 of Cr.P.C, which came to be ordered in favour of the petitioner herein. Subsequently, the petitioner had sought for enhancement of

maintenance in M.C.No.13 of 2012 for a sum of Rs.4,000/-. The learned Judicial Magistrate No.1, Udumalpet, had ordered a sum of Rs.3,000/-. As against the same, the respondent herein had filed a revision in CRP.No. 14 of 2016, in which the learned Additional District Judge No.3, Dharapuram, while reducing the maintenance amount to Rs.2,500/-, had directed that the said amount to be paid from the date of the order of the trial Court. Aggrieved by the same, the present petition has been filed.

2. The learned counsel for the petitioner submitted that there is no justification on the part of the learned Additional District Judge, in revising the maintenance amount from Rs.3,000/- to Rs.2,500/- and also ordering the same to be paid from the date of order of the original Trial Court.

3. There is no representation on behalf of the respondent.

4. I have fully considered the submissions made by the learned counsel for the petitioner.

5. It is seen that the respondent herein had admitted that he was earning a sum of Rs.18,000/- as pension, since he retired as a

school Head Master. While revising the maintenance amount, the learned Additional District Judge No.3, Dharapuram, after deducting 2/3 of pension amount of Rs.18,000/- towards his personal use and his contribution to family, had arrived a sum of Rs.12,000/-. Apart from that, he has also added a sum of Rs.1,000/- and thereby deducted a sum of Rs.13,000/-. Finally, he determined the amount of income at Rs.5,000/- and by deducting 50% from the said amount of Rs.5,000/-, he arrived a sum of Rs.2,500/- towards maintenance.

6. It is not known on what basis the learned Additional District Judge had added a sum of Rs.1,000/- for the purpose of determining the respondent's monthly income. If this amount of Rs.1,000/- has not been included, he would be entitled for the original amount of Rs.3,000/-, which was awarded by the Trial Court towards maintenance and as such, it can only be held that the inclusion of a sum of Rs.1,000/- for the purpose of calculating the respondent's income is baseless. If that is being done, the original amount of Rs.3,000/- awarded will be sustained.

7. Insofar as the date of the payment of maintenance amount is concerned, it is well settled principle that the maintenance amount

has to be awarded from the date on which the petition seeking maintenance is filed. In the present case, the Trial Court, by order dated 31.5.2016, had directed the respondent herein to pay a sum of Rs.3,000/- as maintenance from the date on which the petitioner herein had filed the petition. However, on revision, the learned Additional District Judge, had, without any basis, not only revised the amount but also ordered the same to be paid from the date of order of the learned Judicial Magistrate. The said order is not only illegal but also totally unjustifiable. The learned Additional District Judge ought to have taken into account the fact that the petitioner, who is the mother of the respondent and seeking maintenance from his own son, is a senior citizen. Therefore, restricting the total amount from the date of order is totally unjustifiable.

8. In the result, the order dated 25.01.2017 passed by the learned Additional District Judge No.3, Dharapuram in CRP.No.14 of 2016 is set aside confirming the order dated 31.5.2016 passed by the learned Judicial Magistrate No.3, Udumalpet, in M.C.No.13 of 2012. The respondent herein is directed to pay the maintenance amount of Rs.3,000/- from the date on which the petitioner had originally filed the petition in M.C.No.13 of 2012 before the learned Judicial Magistrate No.1, Udumalpet. The respondent shall also ensure that

the entire arrear amount is paid within a period of four weeks from the date of receipt of a copy of this order.

The Criminal Original Petition is allowed.

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08.09.2017

To

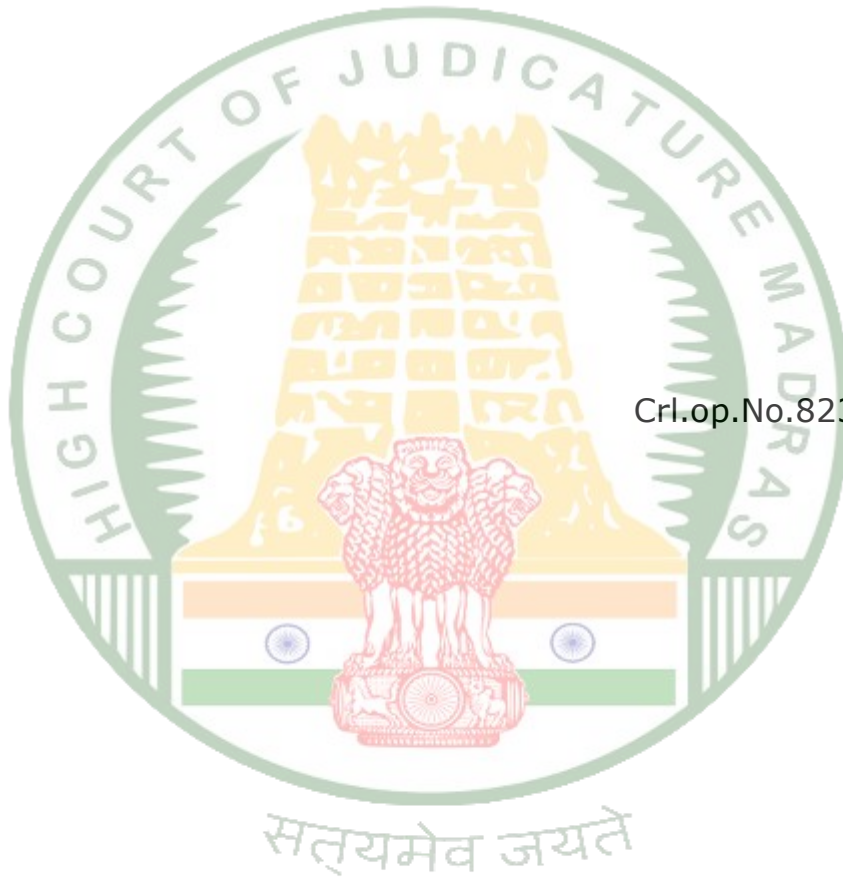
1. The Additional District Judge No.3, Dharapuram
2. Judicial Magistrate No.1, Udumalpet



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M.S.RAMESH, J

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