

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Crl.R.C.No.1537 of 2017
and
Crl.M.P.No.15410 of 2017

P.Mohana Sundaram .. Petitioner/Respondent

Vs.

1.K.Manjula Devi

2.Gokul (minor)
S/o.P.Mohana Sundaram

Rep.by its mother and natural
guardian K.Manjula Devi ... Respondents/Petitioner

PRAYER: Criminal Revision Petition filed under Section 397 R/W 401 Cr.P.C., against the order dated 30.10.2017 made in M.C.No.530 of 2011 on the file of IV Additional Judge, Family Court, Chennai.

For Petitioner : Ms.M.Dhivya

ORDER

Criminal Revision Petition filed against the order dated 30.10.2017 made in M.C.No.530 of 2011 on the file of IV Additional Judge, Family Court, Chennai.

2. The petitioner is husband, first respondent is the wife and second respondent is the minor son. Petitioner filed O.P.No.2304 of 2008 under Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights. The first respondent filed O.P.No.4263 of 2010 for divorce. The first respondent along with her minor son filed M.C.No.530 of 2011 under Section 125 of Crl.P.C., to direct the petitioner to pay maintenance of Rs.10,000/- per month to each of the respondents 1 & 2, totalling Rs.20,000/- from the date of petition. The petitioner filed I.A.No.3364 of 2011 in O.P.No.2304 of 2008 to direct the first respondent to send the minor son namely, Gokul, once in a week in every Sundays between 9 a.m. to 5 p.m. to the petitioner's residence.

3. All the above four cases were taken up together and by common order dated 30.10.2017, O.P.No.2304 of 2008 filed by the petitioner/husband was allowed. I.A.No.3364 of 2011 in O.P.No.2304 of 2008 filed by the petitioner was partly allowed ordering visitation right of the petitioner to his son/second respondent herein twice in a month i.e., 2nd and 4th Saturdays

of every month from 12.00 p.m. to 2.00 p.m. at Child Care Centre, Family Court, Chennai and directing the first respondent to bring the second respondent/minor son on those days at the said centre.

4. In M.C.No.530 of 2011, the respondents have stated that the petitioner is doing interior decoration and false ceiling work and thereby, earning a sum of Rs.25,000/- per month. First respondent claimed Rs.10,000/- per month for her maintenance and Rs.10,000/- per month for maintenance of her minor son/second respondent.

5. The petitioner filed counter and denied that he is earning Rs.25,000/- per month and he is having own house in Arumbakkam, Chennai. The first respondent is working in rubber company and she is earning monthly income more than Rs.15,000/-. M.C.No.530 of 2011 is partly allowed and the petitioner was directed to pay a sum of Rs.2,500/- per month from the date of petition i.e., 21.10.2011 to the minor son with increase of Rs.500/- per year and the same is ordered to be paid on or before 5th of every English calendar month and the relief sought for by the respondent was dismissed.

6. Before the learned Judge, the petitioner examined himself as P.W.1, examined his father namely, Pangunian as P.W.2, examined one Arunachalam as P.W.3 and marked four documents as Exs.P1 to P4. First respondent herself examined as R.W.1, examined her father namely, Kothandan, as R.W.2 and marked five documents as Exs.R1 to R5.

7. The learned Judge considering the evidence of R.W.2/father of the first respondent that the first respondent was earning a sum of Rs.7,500/- per month and on the date of evidence, she was earning Rs.10,000/- per month, rejected the claim of the first respondent for her maintenance. The learned Judge has taken into consideration that the petitioner admitted during cross-examination that he is doing interior decoration, false ceiling work and thereby, earning Rs.10,000/- per month and in view of such admission, the learned Judge directed the petitioner to pay a sum of Rs.2,500/- per month to the second respondent/minor son from the date of petition i.e., 21.10.2011 with increase of Rs.500/- per year.

8. Against the said order dated 30.10.2017 made in M.C.No.530 of 2011, petitioner/husband has come out with the present Criminal Revision Petition.

9. From the impugned order of the learned Judge, it is seen that the first respondent has stated in O.P.No.4263 of 2010 filed by her for dissolution of marriage against the petitioner that the petitioner has no job, not earning any income and he is a drunkard. But in M.C.No.530 of 2011 filed by the respondents for interim maintenance, they have stated that the petitioner is earning Rs.25,000/- per month. The learned Judge considering the said averment made by the

respondents and admission of the petitioner that he is earning Rs.10,000/- per month, ordered sum of Rs.2,500/- to the minor son/second respondent with increase of Rs.500/- per year. The said maintenance awarded to the minor son is reasonable one and it is not excessive. The petitioner as a father of the second respondent is liable to pay maintenance to the minor son. Further, the learned Judge considering the evidence of R.W.2, father of the first respondent that the first respondent has independent income, rejected the claim of the first respondent for her maintenance.

10. The learned Judge considered the materials on record and ordered Rs.2,500/- per month to the minor son for his maintenance from the date of petition by giving cogent and valid reason. There is no reason to interfere with the order of the learned Judge dated 30.10.2017.

11. In the result, the Criminal Revision Petition is dismissed. The petitioner shall pay the maintenance amount awarded by the learned Judge to the minor son/second respondent with the increase of Rs.500/- from the year 2018. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To
IV Additional Judge, Family Court, Chennai.

+1cc to Mr.T.K.S.Gandhi, Advocate SR.No.87627

RR(CO)
sm:23.1.2018

Cr1.R.C.No.1537 of 2017
and

Cr1.M.P.No.15410 of 2017

WEB COPY