

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2017

Coram

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

CRL. REVISION CASE No.701 of 2017

L.Stella

... Petitioner

Vs.

V.Ponnusamy

... Respondent

**Prayer:** The Criminal Revision Case has been filed under Section 397 read with 401 of the Code of Criminal Procedure praying to set aside the fair and final order dated 06.02.2015 made on M.C.No.158 of 2017 on the file of the Additional Family Judge, Coimbatore.

For Petitioner : Mr.K.S.Karthik Raja

For Respondent : Mr.K.Premkumar

ORDER

This Criminal Revision case has been filed against the order passed by the learned Additional Family Judge, Coimbatore in M.C.No.158 of 2007 and DOP.No.122 of 2008 dated 06.02.2015. In the said order, insofar as, M.C.No.158 of 2007 is concerned, the learned Judge has directed the

respondent to pay a sum of Rs.2,500/- per month to the petitioner, from the date of the order and it is payable on or before 10<sup>th</sup> day of every succeeding English Calender month.

2. The present revision has been filed as against the order, by which, the learned Judge has directed the respondent to pay the said maintenance only from the date of order i.e., prospectively and the learned Judge has not allowed the said petition by giving a direction to pay the maintenance from the date of filing of the petition. Hence, the present revision has been filed.

3. It is submitted by the learned counsel appearing for the petitioner that M.C.No.158 of 2007 was filed on 07.12.2007 which was disposed only on 06.02.2015, therefore, there were more than seven years for disposal of the maintenance case by the learned Additional Family Judge, Coimbatore. Certainly, the petitioner would be entitled to get maintenance from the date of the petition. In this regard, the learned counsel appearing for the petitioner would submit that though the learned Judge has found that the petitioner is entitled to get maintenance and in fact, fixed the quantum at Rs.2,500/- p.m. the sum should be ordered to be paid from the date of the petition and not from the date of the order.

4. Though the learned counsel appearing for the respondent has made submission to sustain the said order, however he is not in a position to defend the order in not ordering the maintenance from the date of petition. The learned counsel appearing for the respondent would also submit that in fact the respondent has been scrupulously complying with the order passed by the court below by paying a sum of Rs.2,500/- every month, from the date of order. Further, the learned counsel for the respondent would submit that even during the pendency of the maintenance case, by way of interim maintenance, the respondent is paying a sum of Rs.1,500/-p.m. to the petitioner. These factors are not denied by the petitioner.

5. I have heard the learned counsel on either side and perused the materials placed before this Court.

6. The petitioner has no grievance with regard to the quantum of maintenance fixed by the Court below. The fact remains that during the pendency of the case before the Court below, by way of interim maintenance, a sum of Rs.1,500/- p.m was paid to the petitioner and this fact has been accepted by both sides. When the petitioner had been paid the interim maintenance and her statement was also found in favour of the respondent,

the Court below should have directed the respondent to pay a sum of Rs.2,500/- p.m. to the petitioner towards future maintenance, certainly from the date of petition and what amount paid during the pendency of this case i.e. prior to the order can be permitted to be deducted while calculating the arrear if any, from the date of petition.

7. In the aforesaid circumstances, this Court is of the considered view that the order of the court below that the respondent was directed to pay the interim maintenance of Rs.2,500/- p.m. to the petitioner only from the date of order, is erroneous and it should be from the date of petition.

8. When the learned counsel appearing for the respondent has specifically questioned as to how much arrear amount has to be paid from the date of petition till the date of order, it was replied by the learned counsel for the petitioner that after deducting the interim maintenance already paid by the respondent, the remaining amount, which comes to the tune of Rs.86,000/, is due and payable by the respondent. In view of the same, this Court is of the view that the present dispute between the parties in this revision petition is only in respect of the said amount of Rs.86,000/-.

9. Considering the aforesaid facts and circumstances of the case, the

following orders are passed in this revision case:

i) The impugned order made in M.C.No.158 of 2007 on the file of the Additional Family Court, Coimbatore dated 06.02.2015 is modified to the effect that the respondent is directed to pay a sum of Rs.2,500/- p.m. to the petitioner, from the date of petition.

ii) In view of the said modification, the respondent is directed to pay the arrears of maintenance from the date of the petition, after deducting the interim maintenance already paid. Since a sum of Rs.86,000/-, as agreed by both the counsel is still to be paid as remaining arrears, the respondent shall pay the said sum of Rs.86,000/- to the petitioner in 12 equal monthly installments. The first installment will commence from September 2017.

(iii) It is made clear that in the event of the respondent not paying the arrears by way of installments, it is open to the petitioner to approach the appropriate forum as per law, to redress her grievances.

This revision is ordered in the above terms.

07.08.2017

Index:Yes/No

Internet:Yes/No

kkd

R.SURESH KUMAR,J

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To

The Additional Family Judge,  
Coimbatore.



CRL. RC. No.701 of 2015

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