

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.Nos.1007 and 1058 of 2015
and
M.P.No.1 of 2015

Mrs.S.N.Sarojini

... Petitioner

(in Crl.R.C.No.1007 of 2015 and
respondent in Crl.R.C.No.1058
of 2015)

vs

Palanisamy

...Respondent

(in Crl.R.C.No.1007 of 2015 and
Petitioner in Crl.R.C.No.1058 of
2015)

PRAYER IN CRL.R.C.NO.1007 OF 2015: Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order dated 29.06.2015 made in M.C.No.5 of 2013 on the file of the learned Principal Judge, Family Court, Coimbatore and set aside the same and enhance the maintenance amount.

PRAYER IN CRL.R.C.NO.1058 OF 2015: Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order made in M.C.No.5 of 2013 on the file of the learned Principal Judge, Family Court, Coimbatore, dated 29.06.2015.

For Petitioner : Mr.N.Manoharan
(in Crl.R.C.No.1007 of 2015)

M/S.Thenmozhi Shiva Perumal
(in Crl.R.C.No.1058 of 2015)

For Respondent : Mr.N.Manoharan
(in Crl.R.C.No.1058 of 2015)

C O M M O N O R D E R

The petitioner in Criminal Revision Case No.1007 of 2015 is the petitioner in M.C.No.5 of 2013 on the file of the learned Principal Judge, Family Court, Coimbatore. Earlier she has filed a petition under Section 125 of Cr.P.C, seeking maintenance at the rate of Rs.50,000/- per month and also a sum of Rs.10,000/- towards medical expenses. The Court below allowed the said petition and directed the respondent/husband to pay a sum of Rs.4000/- per month as maintenance and a sum of Rs.3000/- per year as medical expenses to the petitioner. Now, seeking enhancement of maintenance amount, the petitioner/wife filed Crl.R.C.No.1007 of 2015. Aggrieved against the said order, granting maintenance, the respondent/husband, filed Crl.R.C.No.1058 of 2015. For sake of convenience the parties referred hereunder as per their rank in Crl.R.C.No.1007 of 2015.

2. The brief facts leading to filing the present revision case is as follows:-

The marriage between the petitioner and respondent took place on 07.12.1973 and they have no issues out of their wedlock. After six years of the marriage, there was a dispute and the respondent has driven out the petitioner from the matrimonial house. Subsequently, the respondent/husband filed a suit in O.S.No.164 of 1982 seeking divorce. The said suit was dismissed on merits against which the respondent/husband filed an appeal and the appeal was also dismissed. Subsequently, the petitioner/wife filed a suit in O.S.No.475 of 1985 seeking maintenance on the file of the I Additional Sub Court, Coimbatore, in which a sum of Rs.27,000/- as part maintenance, and a sum of Rs.750/- as monthly maintenance and a sum of Rs.1800/- per year towards house rent was ordered. Against which, the respondent/husband filed an appeal before this Court in A.S.No.169 of 1990 and the same was dismissed on 21.04.2005. Thereafter, the petitioner/wife filed a petition in M.C.No.5 of 2013 under Section 125 Cr.P.C. seeking maintenance before the court below. The respondent/husband contested the above case stating that he has no means to pay the maintenance amount and he is 70 years old and he is not in a position to pay the maintenance amount. The Court below considering the fact that the respondent/husband has owned landed property, subsequently he settled the entire agricultural land in favour of his brother and now he is residing along with his brother, considering the facts and circumstances of the case, the Court below allowed the said petition, directing the respondent/husband to pay a sum of Rs.4,000/- per month as maintenance and a sum of Rs.3,000/- per year as medical expenses. Challenging the above order, the

respondent/husband filed Crl.R.C.No.1058 Of 2015, not being satisfied with the quantum of maintenance, the petitioner/wife filed Crl.R.C.No.1057 of 2015 for enhancing the maintenance amount.

3. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

4. The learned counsel appearing for the petitioner would submit that the respondent/husband has owned agricultural land and he deliberately settled the property in favour of his brother in order to avoid payment of maintenance and he is also residing along with his brother and the petitioner is aged about 70 years and sick and she is not able to maintained herself, as she is not able to do any work, and the amount ordered by the Court below is insufficient and hence she sought for enhancement of maintenance amount as well as medical expenses.

5. Per contra, the learned counsel appearing for the respondent/ husband would submit that the respondent/husband is aged about 70 years, he has no means to pay the maintenance amount and he is not in a position to continuously paying a sum of Rs.4,000/- as maintenance as ordered by the Court below and hence he sought for dismissing the criminal revision case.

6. I have considered the rival submissions.

7. The Court below taking into consideration the fact that the respondent/husband has owned landed property, subsequently he settled the entire property in favour of his brother and he is also residing with him. After considering all the circumstances, the Court below ordered a sum of Rs.4,000/- per month as monthly maintenance and a sum of Rs.3,000/- per year as medical expenses and the respondent also paying the amount. In the above circumstances, the contention of the respondent/husband that he has no means to pay the said amount cannot be accepted. Now the petitioner is more than 70 years old and require medical assistant, and she is not in a position to maintain herself and the respondent has a legal obligation to maintain her. Considering the facts and circumstances of the case and in the interest of justice, the respondent/husband is directed to pay a sum of Rs.5,000/- per month towards maintenance to the petitioner/wife and also to pay a sum of Rs.5,000/- per year as medical expenses.

8. With the above modification, the Criminal Revision Cases are disposed off. Consequently, connected M.P. is closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

rrg
To

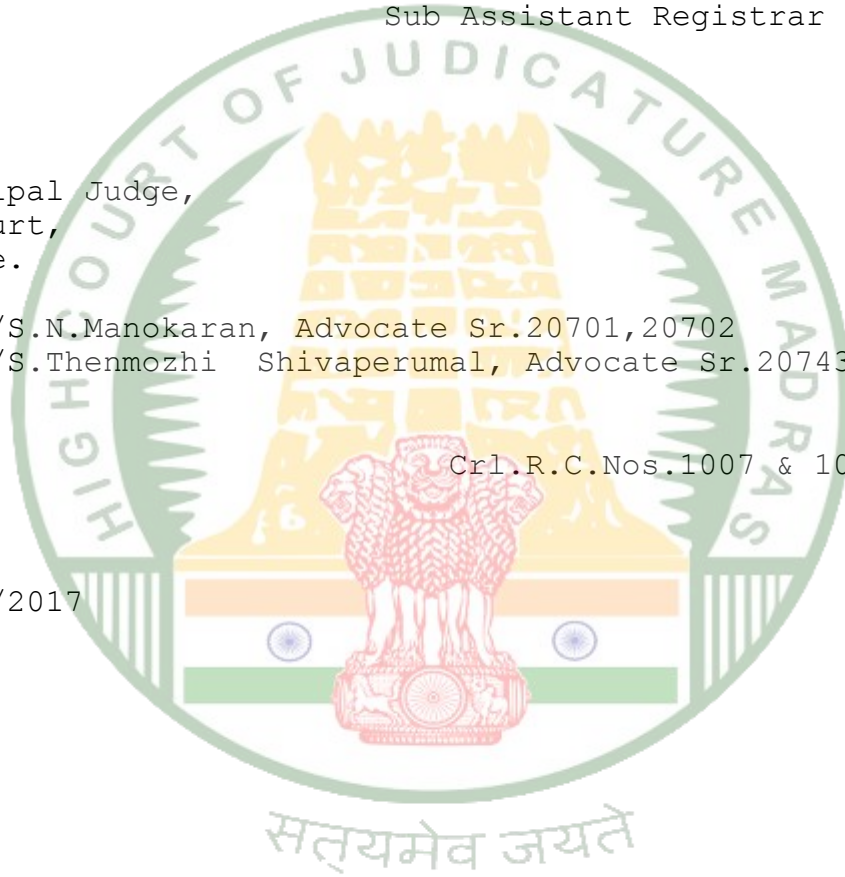
The Principal Judge,
Family Court,
Coimbatore.

+2cc to M/S.N.Manokaran, Advocate Sr.20701,20702

+2cc to M/S.Thenmozhi Shivaperumal, Advocate Sr.20743, 20744

Cr1.R.C.Nos.1007 & 1058 of 2015

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