

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 30.01.2017
CORAM
THE HONOURABLE MR. JUSTICE C.T.SELVAM
Crl.R.C.No.1006 of 2016

Thavaselvevan

... Petitioner

Vs.

1.S.Punithakumari

2.Minor T.Thavanitha

minor represented by
her mother 1st respondent.

... Respondents

Criminal Revision filed under Section 397 and 401 Cr.P.C.
against the order of learned Judge, Family Court, Erode, passed
in M.C.No.17 of 2015 on 01.04.2016.

For Petitioner : Mr.M.Guruprasad
For Respondents: Mr.J.Titus Enock

O R D E R

This revision arises against an order directing payment of
maintenance. After passing interim orders, matter has been
referred to mediation without success.

2. Heard the learned counsel for petitioner and the learned
counsel for respondents.

3. This petition challenges the order of learned Judge,
Family Court, Erode, passed in M.C.No.17 of 2015 on 01.04.2016
u/s. 125 Cr.P.C.

4. Learned counsel for petitioner submitted that in
proceedings in C.M.P.No.10616 of 2013, payment of a sum of
Rs.2,000/- to the 1st respondent/wife and Rs.4,000/- to the 2nd
respondent/minor child towards maintenance was directed. The
Court below in directing the petitioner to pay a sum of
Rs.8,000/- in maintenance to the minor daughter/2nd respondent
has observed that an earlier direction towards maintenance in
other proceedings would not be a bar to raise a claim u/s. 125
Cr.P.C. but erroneously failed to factor in the effect of such
other order, in directing further payment of maintenance.
Learned counsel submitted that under the two orders, the
petitioner, in effect, was required to pay maintenance in a sum
of Rs.14,000/- which petitioner is unable to do.

5. It is the contention of learned counsel that Court below has directed payment of maintenance only to the minor daughter since the first respondent/wife was employed as a nurse. On the same consideration Court below, ought to have taken note of the fact that 1st respondent/wife has admitted to earning Rs.8,000/- per month and directed payment of maintenance to the daughter in a lesser sum. Learned counsel further submits that petitioner has to take care of his mother aged 76 years.

6. Learned counsel for respondents submitted that towards enabling respondents to receive maintenance under one order, and having had return of all her articles, first respondent has withdrawn the proceedings in C.M.P.No.10616 of 2013. Learned counsel for respondents acknowledges that in keeping with the earlier direction of this Court the petitioner has effected payment of Rs.1,00,000/- to the respondents.

7. On consideration this Court, considers it appropriate and accordingly directs the petitioner to effect payment of maintenance in a sums of Rs.4,000/- to the 1st respondent/wife and Rs.8,000/- to the 2nd respondent/daughter. Such sum shall be payable from the date of filing of original petition before Court below viz 21.04.2015, after giving due deduction to the sum of Rs.1,00,000/- paid during the pendency of proceedings before this Court. The petitioner shall now be required to effect payment of the arrears due within a period of three months from the date of receipt of a copy of this order. Petitioner shall be upon duty to make payment of maintenance which is now ordered on or before 5th of every succeeding month. Criminal revision petition is ordered accordingly. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To
The Judge, Family Court, Erode

+1 cc to Mr.M.Guruprasad Advocate sr 5750
+1 cc to Mr.J.Titus Enock Advocate sr 5420

Cr1.R.C.No.1006 of 2016

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