

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.1136 of 2016

and

Crl.M.P.No.9876 of 2016

V.Nagarajan

...Petitioner/Respondent

Vs

1.Tmt.Rajamani

2.Devipriya

...Respondents/Petitioners

Criminal Revision Case filed under section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order dated 09.02.2016 passed in M.C.No.37 of 2011, by the learned Principal Family Court, Coimbatore and thereby allow the criminal revision case.

For Petitioner : Mr.A.Rajeshkanna

For Respondent : Mr.S.Saravanan

O R D E R

The petitioner filed the present criminal revision case against the order granting maintenance to the respondents. The first respondent is the wife and the second respondent is the daughter of the petitioner. Earlier, the respondents filed a petition in M.C.No.59 of 2006 under Section 125 of Cr.P.C. The Court below, by its order dated 27.02.2001, directed the petitioner to pay a sum of Rs.500/- to the first respondent herein and a sum of Rs.400/- to the second respondent herein as maintenance. Thereafter, the respondents herein filed another petition in M.C.No.129 of 2006 for enhanced the maintenance amount. The Court below, by its order dated 04.07.2008, enhanced the maintenance to Rs.750/- to the first respondent and a sum of Rs.650/- to the second respondent. Thereafter, the respondents herein filed yet another petition in M.C.No.37 of 2011 seeking further enhancement of maintenance to Rs.4000/- for each of the respondents. The Court below, after elaborate trial, by its order dated 09.02.2016, enhanced the maintenance to Rs.3,000/- to the first respondent from the date of petition and in so far the second respondent is concerned it has been enhanced to Rs.2,000/- to the second respondent from the date of petition till the second respondent got married on 14.11.2013. Now,

challenging the same, the present criminal revision case has been filed by the petitioner.

2. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and also perused the materials available on record.

3. The learned counsel appearing for the petitioner would submit that the maintenance amount awarded by the Court below is highly excessive, and the petitioner is working as Clerk in Bharathiyar University and his take home salary is only Rs.13,000/-. In the above circumstances, the petitioner is not in a position to pay the maintenance amount ordered by the Court below and hence he sought for modification of the order by reducing the maintenance amount.

4. Per contra, the learned counsel appearing for the respondents would contend that the petitioner is working as a Clerk in Bharathiyar University and he getting a monthly salary for a sum of Rs.29,000/- per month. He would further contend that the second respondent got married and the Court below has directed the petitioner to pay the maintenance amount till the second respondent got married and the Court below has ordered only a sum of Rs.3,000/- to the first respondent and the said amount is very meager for her maintenance. He also contended that the first respondent has no means to maintain herself and hence the amount ordered by the Court below is very just and reasonable and as such the same needs no interference at the hands of this Court.

5. I have considered the rival submissions carefully.

6. It is the admitted fact that the first respondent is the legally wedded wife and the second respondent is the daughter of the petitioner. It is also the admitted fact that the petitioner is working as Clerk in Bharathiyar University and the salary certificate of the petitioner has also been marked as Ex.P8, which revealed that his take home salary is not below then Rs.29,000/- per month. Hence, it is clear that the petitioner has enough means to pay the maintenance amount to the respondents. Apart from that, the first respondent also filed a document to show that she is a sick person and she has been taking treatment and the second respondent got married on 14.11.2013. In the above circumstances, the Court below ordered for a sum of Rs.3,000/- to the first respondent, and since the second respondent got married on 14.11.2013, the Court below directed the petitioner to pay a sum of Rs.2,000/- per month to the second respondent from the date of petition till 14.11.2013. Considering all the materials available record, I am of the considered opinion, that the first respondent who is the legally wedded wife, and the second respondent who is the daughter of

the petitioner do not have sufficient means and the petitioner has means to pay the maintenance, further more, the petitioner also has a legal obligation to maintain his wife and daughter. In the light of the above conclusion, I do not find any illegality or irregularity in the order passed by the Court below and the amount ordered by the Court below is found to be just and reasonable and not excessive. Thus, the revision fails and the same deserves for dismissal.

7. In the result, the criminal revision case is dismissed. Consequently, connected M.P. is closed.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To

1. The Principal Family Court,
Coimbatore.
2. The Section Officer
Criminal Section, High Court, Madras.

+1 Cc to Ms.S. Saravanan, Advocate sr 40205.

+1 Cc to Ms.A. Rajesh Kanna, Advocate sr 40238.

सत्यमेव जयते

Cr1.R.C.No.1136 of 2016

SKV (CO)
SP (06/11/2017)

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