

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.159 of 2012
and
M.P.No.1 of 2012

Jeyamoorthi ..Petitioner/Respondent
Vs

1. Vijaya, W/o.Jeyamoorthi

2. Inithan

3. Nithiyavaishnavi ..Respondents/Petitioners

(Respondents 2,3 are rep.by Mother/1st Respondent)

Prayer:-

This Criminal Revision is filed under Section 397 r/w. 401 of Cr.P.C., to call for the records pertaining to the proceedings in M.P.NO.12 of 2010 (M.C.No.12 of 2010) on the file of the Judicial Magistrate No.I, Tindivanam and set aside the same.

For petitioner : Mr.M.Devaraj

For respondents : Mr.K.Balakrishnan

O R D E R

Challenging the order granting maintenance, the present revision has been filed by the petitioner/husband. The first respondent is the wife and second and third respondents are minor son and daughter of the petitioner. Earlier the first respondent has filed a petition under Section 125 Cr.P.C seeking maintenance at the rate of Rs.10,000/- (Rupees Ten Thousand only) as a maintenance for herself and other two respondents.

2. The trial Court ordered the application and directed the petitioner to pay a sum of Rs.2,000/- (Rupees Two Thousand Only) to the first respondent. Since the second respondent is a mentally retarded child, the trial Court has ordered Rs.2,000/- (Rupees Two Thousand Only) towards maintenance and medical expenses to the second respondent. The third respondent is a minor daughter and she is studying school and she was ordered maintenance for a sum of Rs.1000/-

(Rupees One Thousand Only). The trial Court ordered totally Rs.5,000/- (Rupees Five Thousand Only) towards maintenance.

3. Now challenging the said Order granting maintenance, the petitioner/husband filed the present revision case. According to the respondent, the marriage between the petitioner and the first respondent took place on 15.09.1996 and the respondents 2 and 3 were born to them out of their wedlock. The second respondent/minor son is a mentally retarded child. The petitioner had intimacy with another lady and neglected her wife/first respondent and also the other two respondents. Thereafter, they were living separately and she has filed a petition seeking maintenance and the above petition was opposed by the petitioner stating he has no means to pay maintenance and also made allegations against the first respondent.

4. In order to prove their case, on the side of the petitioners, 3 witnesses were examined and 6 documents were exhibited and on the side of the respondents three witnesses were examined.

5. Considering all these materials, the trial Court came to the conclusion that there is a dispute between first respondent and the petitioner and there is no material to show that the first respondent deserted the petitioner and living separately. So far as the means of the petitioner is concerned, the trial Court considering the evidence of D.W.3 that he is running a Tiles Shop at Marakkanam and also he is having sufficient means and the petitioner has sufficient means to pay arrears of maintenance and passed order directing to him pay maintenance to the respondents.

6. I have heard Mr.M.Devaraj, learned counsel appearing for the revision petitioner and Mr.K.Balakrishnan, learned counsel appearing for the respondents.

7. On a perusal of records, it is an admitted fact that the petitioner is the husband of the first respondent and father of the second and third respondents. Hence, he has a legal obligation to maintain them and it is also not proved that the respondents are deserted and the petitioner is living separately. On the other hand, the petitioner also have sufficient means to maintain respondents.

8. Considering the fact that the second respondent/minor son is a mentally retarded child and also he requires medical treatment continuously and third respondent/minor daughter she was studying in school, the trial Court rightly ordered a sum of Rs.5,000/- totally to all the three respondents as maintenance. The trial court considering the materials available on record awarded maintenance. On a perusal of records, I find no irregularity or illegality in the order passed by the court below and there

is no merits in this revision and hence, this revision liable to be dismissed.

Accordingly, the Criminal Revision case is dismissed. Consequently, connected Miscellaneous Petition is closed.

dh

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I,
Tindivanam.
2. -do-thro The Chief Judicial Magistrate, Villupuram
3. The Section Officer, Criminal Section, High Court, Madras

+1cc to Mr.K.Balakrishnan, Advocate Sr.No.79259
+1cc to Mr.M.Devaraj, Advocate SR.No.79555

Cr1.R.C.No.159 of 2012

SKV(CO)
sm:28.11.2017

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