



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) No. 7930 of 2017

1. Vijaya Lakshmi
2. Minor I. Girivin
3. Minor Jeevitha
(Both the minors represented by their
mother and natural guardian
Vijayalakshmi) : Petitioners/Petitioners/Petitioners

-Vs-

Illamparuthi : Respondent/Respondent/Respondent

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to set aside the judgment dated 03.02.2017 made in Crl.R.C.No.40 of 2016, on the file of the Court of Fast Track Judge cum Sessions Judge, Karur confirming the order passed by the learned Chief Judicial Magistrate, Karur by order dated 23.08.2016 made in M.C.No.28 of 2014.

For Petitioner : Mr. N. Shanmuga Selvam

O R D E R

Vijaya Lakshmi, first petitioner herein got married to Illamparuthi, respondent herein on 10.03.2004 and they have two children viz., I. Girivin and I. Jeevitha. Their marriage ran into rough weather and therefore, Vijaya Lakshmi filed M.C.No.28 of 2014 before the learned Chief Judicial Magistrate, Karur under Section 125 Cr.P.C., in which final orders were passed on 23.08.2016 directing Illamparuthi to pay Rs.2,000/- each (totally Rs.6,000/-) p.m. as maintenance to Vijaya Lakshmi and her two minor children. Not satisfying with the quantum of maintenance, Vijaya Lakshmi filed Crl.R.C.No.40 of 2016 before the Sessions Court under Section 397 Cr.P.C., which was dismissed on 03.02.2017 by the Mahila Court (Sessions Level), Karur. Challenging the orders passed by the Courts below, Vijaya Lakshmi is before this Court.

2. Heard the learned Counsel for the petitioners, who submitted that both the Courts have fixed a very low amount as maintenance.



3. This Court gave its considered opinion to the submissions of the learned Counsel appearing for the petitioner.

4. Under Section 397(3) Cr.P.C., once a party elects to approach the Sessions Court, he shall be precluded from filing the second revision before the High Court. However, a petition under Section 482 Cr.P.C. is maintainable when it is shown that the orders passed by the Courts below is beyond jurisdiction or without jurisdiction or on the face of it illegal. In this case, both the Courts have appreciated the evidence adduced by the parties and fixed the maintenance at Rs.6,000/-p.m. Hence, this Court cannot interfere in factual matters, as there is no perversity or illegality in the orders passed by the Courts below. It is always open to Vijaya Lakshmi to file an application under Section 127 Cr.P.C. for alteration of maintenance after sometime, if there is any change in circumstances.

5. In the result, this Criminal Original Petition is devoid of merits and the same is dismissed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Fast Track Judge - cum - Sessions Judge,
Karur.

2.The Chief Judicial Magistrate, Karur.

+1cc to Mr.N.Shanmuga Selvam, Advocate Sr.No.62117

SSL

VB/JC/SAR2/07.07.2017/2P/4C

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