



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2017

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CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Cr1.RC(MD)No.166 of 2017

and

CRL MP(MD)No.1572 of 2017

S.Padmanapan : Petitioner / Respondent

Vs.

S.Ramanujathammal : Respondent / Petitioner

Prayer: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records and set aside the order passed by the Learned Sessions Judge, Mahila Court Judge, Family Court (FAC) Thiruchirappali, dated 22.12.2016 in M.C.No. 174 of 2014 and allow the petition.

For Petitioner : Mr.K.Sivabalan
For Respondent : Mr.S.Sathis Kumar

ORDER

This Criminal Revision Case is filed praying to call for the records and set aside the order passed by the Learned Sessions Judge, Mahila Court Judge, Family Court (FAC), Thiruchirappali, dated 22.12.2016 in M.C.No. 174 of 2014 and allow the Revision.

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

3. The respondent herein is the mother of the Revision Petitioner and she file an application in M.C.No.174 of 2014, before the Family Court, Tiruchirapalli, seeking monthly maintenance of Rs.10,000/-per month from the petitioner herein. The said case was tried and allowed by the Family Court on 22.12.2016 by stating that the property mentioned in Ex.P3 shall be vacated and the vacant possession has to be handed over to the respondent/ petitioner by the petitioner / respondent, as maintenance, within a period of two months.



4. The learned counsel appearing for the petitioner contends that such an order is beyond the scope of Section 125 of Cr.P.C., and the trial Court has not decided the point in issue regarding the monthly maintenance claimed in that application. He would further submit that the said order is illegal and the said Court can order only monthly allowance, as maintenance, but it cannot be ordered to deliver the possession of the property, which has to be adjudicated before the competent civil Court.

5. The learned counsel appearing for the respondent also agreed to the fact that the order passed by the trial Court is beyond the scope of Section 125 of Cr.P.C., and the monthly maintenance is not fixed in the said order also.

6. Considering the above fact circumstances of the case and also the order passed by the Family Court regarding the monthly maintenance, under Section 125 of Cr.P.C., this Court is inclined to set aside the order passed by the Family Court, Tiruchirappalli, since it is beyond the scope of Section 125 of Cr.P.C.

7. In the result, the Criminal Revision Case is allowed and the order passed by the Family Court, Tiruchirappalli, in M.C.No.174 of 2014, dated 22.12.2016 is set aside and the matter is remanded back to the concerned Court, for re-consideration of the issue of maintenance, as per question 125 of Cr.P.C. The trial Court is directed to dispose of the said case within a period of one month from the date of receipt of a copy of this order, since both the parties are senior citizen in this case and report the disposal to the Registry, within the stipulated time, after giving an opportunity of hearing to both sides. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-1)

/True Copy/

Sub Assistant Registrar

To

1. The Sessions Judge,
Mahila Court Judge,
Family Court (FAC),
Tiruchirappalli.

2. The Additional Public Prosecutor,
Madurai.
Services of Madras High Court,
Madurai.



3. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court.

+1cc to Mr.K.Sivabalan, Advocate Sr.No.16882

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VB/JC/06.04.2017/3P/5C

Cr1.RC(MD)No.166 of 2017

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