



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Crl.R.C.(MD)No.859 of 2016

and

Crl.M.P(MD)No.12484 of 2016

Marichamy

... Petitioner/
Respondent

Vs.

1.Kuppu Rajeswari
2.Minor Dineshkumar

... Respondents/
Petitioners

PRAYER: Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records in M.C.No.28 of 2015 and set aside the order dated 29.09.2016, passed by the Family Court, Srivilliputtur.

For Petitioner : Mr.K.Hariharan

For Respondents : Mr.K.N.Balasubramanian
for Mr.T.Thangamani

ORDER

The husband who has suffered an order for maintenance of Rs.7,000/- (Rupees Seven Thousand only) per month, each to the wife and the minor son, is the petitioner.

2. The first respondent/wife filed M.C.No.28 of 2015 claiming maintenance for herself and for her son. She had claimed a sum of Rs.10,000/- (Rupees Ten Thousand only) for herself and a sum of Rs.7,500/- (Rupees Seven Thousand and Five Hundred only) for the child. The marriage is admitted. The claim of the petitioner/husband that the wife was unfit for marital life and the marriage should be annulled under Section 12(1-A) of the Hindu Marriage Act, has been rejected by the Courts below and the appeals filed by the petitioner/husband as against the said rejection have been dismissed by me today. Therefore, the claim of the petitioner/husband that he is not bound to pay maintenance to his wife and minor child cannot be accepted.

3. The Family Court has taken into account the salary of the husband and fixed the maintenance at Rs.7,000/- (Rupees Seven Thousand only) per month each for the wife and the minor son.



4. The Family Court has found that the petitioner/husband was working as Postal Assistant in the Postal Department and he has taken voluntary retirement on 05.08.2016.

5. In the affidavit filed in support of the stay petition filed along with this revision, the petitioner/husband has stated as follows:

"3. ... After serving in the postal department as postal assistant in various places, I sought for voluntary retirement, allowed to retire by 05.08.2016. My full pension was not yet settled. I am getting provisional pension of Rs.20,000/- per month."

6. If the petitioner/husband is getting the provisional pension of Rs.20,000/- (Rupees Twenty Thousand only), his monthly income should have been not less than Rs.40,000/- (Rupees Forty Thousand only). Therefore, I do not find any ground for reducing the maintenance awarded from 27.03.2014.

7. The learned Counsel for the petitioner/husband would contend that the petitioner/husband is now retired and he is only getting the pension of Rs.20,000/- (Rupees Twenty Thousand only). If the petitioner/husband has chosen to voluntarily retire even after suffering an order for maintenance, he has taken the risk with his eyes wide open. I do not think that the award of maintenance of Rs.7,000/- (Rupees Seven Thousand only) per month each for the wife and the minor child is unreasonable.

8. Hence, this Criminal Revision Case is dismissed. Consequently, the connected criminal miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

The Family Court,
Srivilliputtur.

+One cc to Mr.K.Hariharan, Advocate, SR.No.63526

+One cc to Mr.T.Thangamani, Advocate, SR.No.63231

rsb

RL/4C/2P/JC/SAR1/7/7/2017

Cr1.R.C.(MD)No.859 of 2016

and

Cr1.M.P(MD)No.12484 of 2016

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