

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2018

C O R A M

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

CrI.R.C.P.No.322 of 2018 &
CrI..M.P.No.3931 of 2018

R.Thirumoorthy

..Petitioner

Vs.

Minor T.S.Vijay Adithiya
Minor rep. By Guardian Mother
Sivagami

....Respondent

PRAYER: Criminal Original Petition is filed under Section 397 and 401 of the Code of Criminal Procedure to call for the records and set aside the order dated 20.07.2017 passed by the Family Court, Erode in M.C.No.64 of 2016.

For Petitioner : Mr.K.Gandhi Kumar

O R D E R

This revision petition has been filed against the order dated 20.07.2017 passed by the Family Court, Erode in M.C.No.64 of 2016.

2. The petitioner is the father of the respondent herein. Initially, the respondent/son filed a maintenance case in M.C.No.61 of 2011 through his biological mother, by claiming a sum of Rs.4,000/- p.m. as maintenance before the Chief Judicial Magistrate, Erode and the same was dismissed on 18.12.2012 for non-prosecution. After a lapse of five years, the respondent herein filed another petition under Section 125 of the Code of Criminal Procedure in M.C.No.64 of 2016, before the Family Court, Erode, on the ground that the respondent is studying in Bharathi Vidhya Bhavan, Erode, (Central Board Secondary Education), which is a residential school and that his mother is spending huge money for pursuing his studies. Unable to pay such amount by her mother, the respondent herein filed the petition under Section 125 of the Code of Criminal Procedure claiming a sum of Rs.20,000/- p.m. as maintenance as against the petitioner.

3. After hearing the elaborate discussion and considering the materials placed on record, the Court below directed the petitioner herein to deposit a sum of Rs.20,000/- p.m. till the

respondent herein attain majority. As against the order of the Court below, the petitioner/father is before this Court.

4. The learned counsel for the petitioner/father would submit that initially the respondent was a minor and he filed a maintenance petition before the Chief Judicial Magistrate, Erode and the same was dismissed for non-prosecution on 18.12.2012. Against which, the respondent preferred an appeal in Crl. A.No.42 of 2016 before the II Additional Sessions Court, Erode and the same was dismissed on 12.01.2017. During the pendency of the appeal, the petitioner filed the present maintenance petition before the Family Court, Erode. He would further submit that the petitioner has also invested a sum of Rs.2,31,000/- in Mutual Funds in favour of the respondent for the purpose of his future expenses and he is ready to spend a sum of Rs.10,000/- p.m. However, the Family Court, Erode, erroneously awarded a sum of Rs.20,000/- p.m. which is highly excessive and exorbitant and therefore, the order passed by the Court below is liable to be interfered with by this Court.

5. On perusal of the records, it is clear that there is no dispute between the relationship of the petitioner and the respondent. Admittedly, the respondent is studying in Bharathi Vidhya Bhavan School, Erode and at the time of filing the maintenance petition, he was pursuing his XI Standard. Subsequently, he completed his XII Standard and now he is pursuing higher studies. Admittedly, for pursuing studies in a private school, the educational expenses will be normally higher than the normal schools and the mother is also taking care of the respondent. However, a duty is cast upon the petitioner to maintain his own son and having regard to the same, the Court below awarded a sum of Rs.20,000/- p.m., towards educational expenses, a sum of Rs.10,000/- p.m., towards food a sum of Rs.6,000/- and dress and medical expenses Rs.2,000/- each] totally Rs.20,000/-, which in the opinion of this Court is very reasonable.

6. Considering the present day cost of living and the educational expenses required to be met, the Court below rightly awarded only a sum of Rs.20,000/- p.m. which is very reasonable and the same is hereby confirmed. The petitioner herein is therefore directed to deposit the entire amount including arrears as on date to the credit of M.C.No.64 of 2016 on the file of the Family Court, Erode and continue to pay Rs.20,000/- as monthly maintenance till the respondent attains majority. The Court below shall disburse the amount to the respondent, in the absence of any formal application. Liberty is granted to the petitioner to file a petition if any change of circumstances arises.

7. With the above observations, this revision petition is dismissed. Consequently, connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Family Court,
Erode.

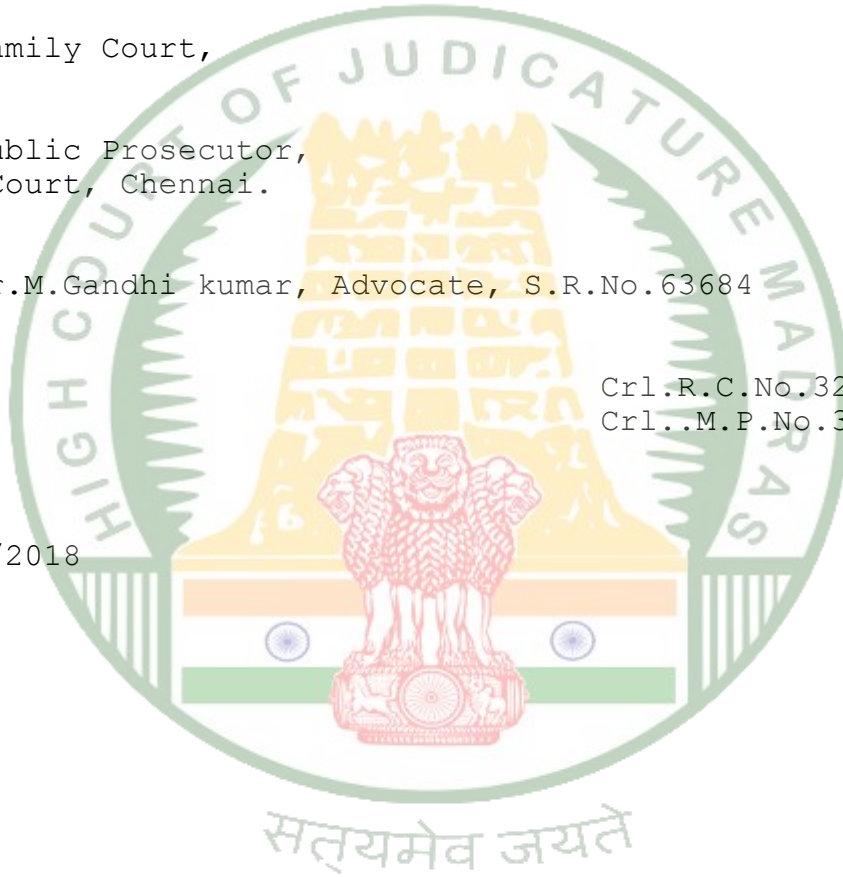
2.The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.M.Gandhi kumar, Advocate, S.R.No.63684

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PPA(CO)

rrs 17/10/2018



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