

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.R.C.No.1180 of 2013

Ravi

...Petitioner

Vs.

1. Chitra

2. Minor Sharmia

... Respondents

Prayer: The Criminal Revision filed under Section 397 and 401 of Code of Criminal Procedure to call for records and set aside the order dated 19.01.2012 made in M.C.No.7 of 2010 passed by the learned Chief Judicial Magistrate, Cuddalore.

For Petitioner : Mr.D.Baskar

For Respondent : Mr.V.Jeevagiridharan-No appearance

ORDER

This criminal revision has been filed to set aside the order dated 19.01.2012, passed by the Chief Judicial Magistrate, Cuddalore in M.C.No.7 of 2010.

2 The first respondent is wife of the petitioner and the second respondent is daughter of the petitioner. The first respondent married the petitioner on 28.09.1992. Thereafter, for the cruelty made by the petitioner, 1st respondent has been living separately with 2nd respondent/daughter under the shadow and mercy of her parents. Hence, 1st respondent/wife along with her minor daughter filed a petition in M.C.No.7 of 2010 under Section 125 of Cr.P.C seeking maintenance before the Chief Judicial Magistrate, Cuddalore. The petitioner/husband is working at NLC and earning a huge amount as salary. The salary certificate of the petitioner is marked as Ex.R9. After trial, from the oral and documentary evidence, the learned Chief Judicial Magistrate passed an order dated 19.01.2012, directing the petitioner/husband to pay a sum of Rs.3500/- p.m. and Rs.2500/- p.m. to 1st and 2nd respondents respectively i.e. Rs.6000/- per month towards maintenance and other expenses.

3 As against the order dated 19.01.2012, the petitioner/husband has preferred this criminal revision before this Court.

4 The learned counsel for the petitioner/husband would submit that 1st respondent is working in a reputed Institution and earning a lumpsum salary, which is sufficient to maintain herself and her daughter and hence she is not entitled for maintenance and 2nd respondent has attained majority. After the order of maintenance, restitution of conjugal rights was ordered by the Court on 31.01.2013 and hence the respondents are not entitled for maintenance. The salary of the petitioner/husband has been boasted in the petition, which is not correct. Though the gross salary of the petitioner/husband is shown as Rs.32,000/-, he is only getting approximately Rs.10,000/- per month after deduction of around Rs.24,000/-. Further, he submitted that since, the petitioner has to meet his medical expenses along with other expenses within that Rs.10,000/-, the petitioner is not in a position to pay such a huge amount i.e. Rs.6000/- per month to the respondents. The learned Chief Judicial Magistrate has failed to consider the above aspect, which warrants interference.

5 When the matter is called, there is no representation for the respondents. Heard the learned counsel for the petitioner and perused the materials available on record.

6 On a perusal of records, it reveals that there is no dispute with reference to jural relationship between the parties. The respondents have been living separately. The learned Counsel for the petitioner admitted that the petitioner's total salary is Rs.32,000/-, and after deduction he is getting around Rs.10,000/- per month. But, the petitioner failed to prove that the respondents are having sufficient source of income to maintain themselves. Therefore, the learned Chief Judicial Magistrate had come to the conclusion that the respondents herein have no sufficient means to maintain themselves and the petitioner herein has sufficient means to maintain himself. As a salaried person, the petitioner/husband is liable to maintain his wife and unmarried daughter. Hence, there is no perversity in the order passed by the learned Chief Judicial Magistrate and there is no merit in the revision. Under these circumstances, the revision is liable to be dismissed.

7 In the result, the revision petition is dismissed. The revision petitioner is directed to pay the entire arrears of amount to the respondents within a period of one month from the date of receipt of a copy of this order, failing which, the

respondents are directed to proceed further before the Chief Judicial Magistrate to recover the same.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

To

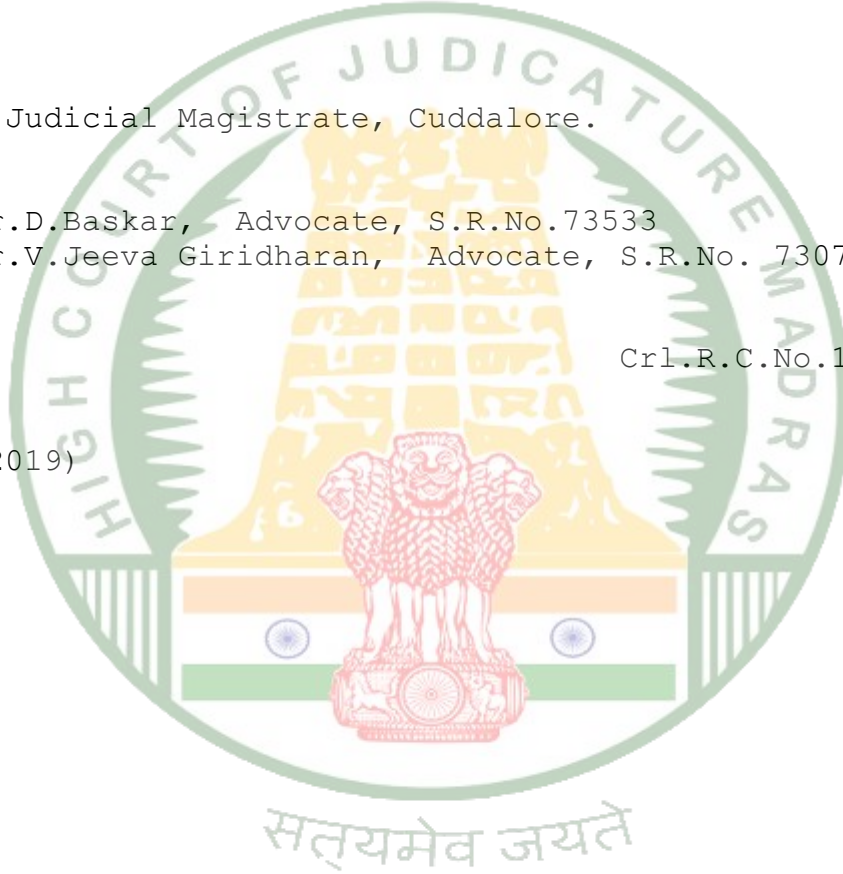
The Chief Judicial Magistrate, Cuddalore.

+1cc to Mr.D.Baskar, Advocate, S.R.No.73533

+1cc to Mr.V.Jeeva Giridharan, Advocate, S.R.No. 73075

Crl.R.C.No.1180 of 2013

GN(12/03/2019)



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