

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.R.C.No.1288 of 2013

N. Syed Hussain

...Petitioner

Vs.

1. Mallika Banu
2. Minor Rifa

... Respondents

Prayer: The Criminal Revision filed under Section 397 and 401 of Code of Criminal Procedure to set aside the order dated 14.08.2013 made in M.C.No.223 of 2011 on the file of Family Court, Coimbatore.

For Petitioner : Mr.N.Ishtiaq Ahamed

For Respondent : Mr.C.D.Sugumar - No appearance

ORDER

This criminal revision has been filed against the order dated 14.08.2013 passed by the Family Court, Coimbatore in M.C.No.223 of 2011.

2 The first respondent is wife of the petitioner and the second respondent is daughter of the petitioner. The 1st respondent married the petitioner on 18.11.2009. Because of the cruelty made by the petitioner/husband and his family members, the respondents are living separately along with her parents. Hence, 1st respondent/wife along with her minor daughter, had filed a petition in M.C.No.223 of 2011, under Section 125 of Cr.P.C for maintenance, before the Family Court, Coimbatore. After trial, from the oral and documentary evidence, the learned Magistrate passed an order, directing the petitioner/husband to pay a sum of Rs.3000/- p.m. and Rs.2000/- p.m. to 1st and 2nd respondents respectively i.e. Rs.5000/- per month towards maintenance, by an order dated 14.08.2013.

3 As against the order dated 14.08.2013, the petitioner/husband has preferred this criminal revision before this Court.

4 The learned counsel for the petitioner/husband would submit that the salary of the petitioner/husband has been cited higher in the petition, which is not correct. Though the gross salary of the petitioner/husband is Rs.17,042/-, he is only getting approximately Rs.10,000/- per month after deduction of Rs.6,927/-. Further, he submitted that since, the petitioner has to meet out all the expenses within that Rs.10,000/-, the petitioner is not in a position to pay such a huge amount i.e. Rs.5000/- per month to the respondents. The Family Court has failed to consider the above aspects, 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 relationship and the respondents are living separately from the petitioner/husband. The learned Counsel for the petitioner has admitted that the petitioner's total salary is Rs.17,042/- and after deduction, he is getting around Rs.10,000/- per month. The salary certificate of the petitioner for the month of February 2012 to April 2012 & July 2012 had been marked as Ex.R6. The petitioner has failed to prove that the respondents are having sufficient source of means to maintain themselves. Therefore, the learned Family Court Judge had come to the conclusion that the respondents herein has no sufficient means to maintain themselves and the petitioner herein has sufficient means to maintain himself and awarded only Rs.3000/- p.m. and Rs.2000/- p.m. to 1st and 2nd respondents respectively. Hence, this court does not find any reason to interfere with the order passed by the Family Court. As a salaried person, the petitioner/husband is liable to maintain his wife and daughter. Hence, there is no perversity in the order passed by the learned Magistrate and there is no merit in the revision.

7 In the result, the revision petition is dismissed and the revision petitioner is directed to pay the entire arrears of amount if any to the respondents within a period of one month

from the date of receipt of copy of this order failing which, the respondents are directed to proceed with further before the Family Court, Coimbatore for recovering the amount.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

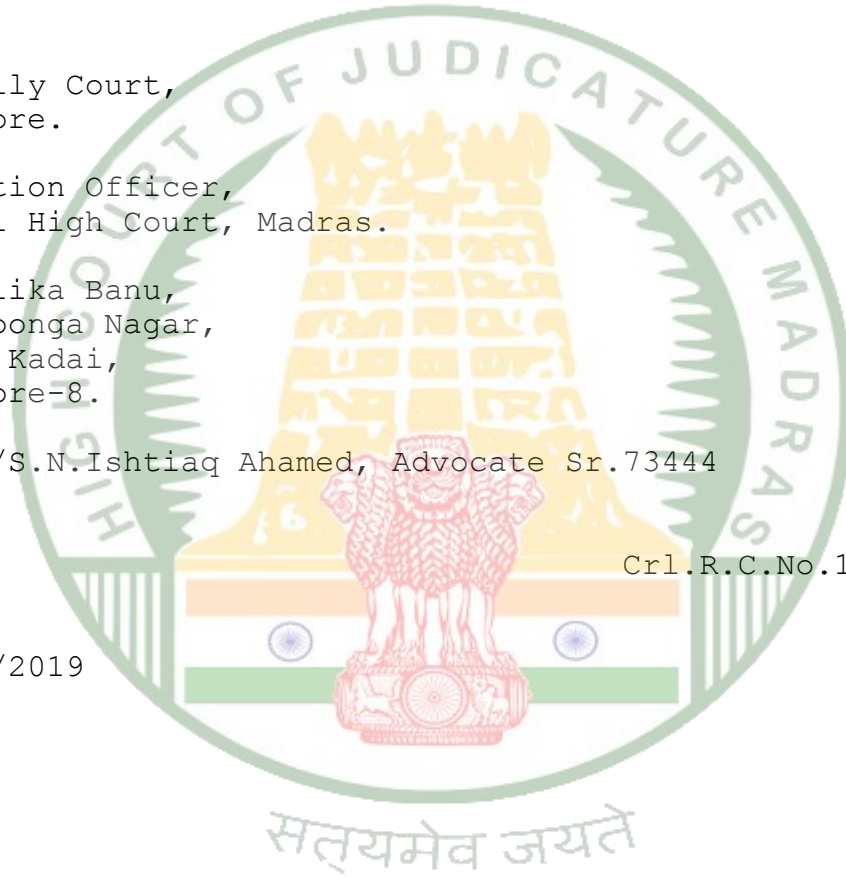
To

- 1.The Family Court,
Coimbatore.
- 2.The Section Officer,
Criminal High Court, Madras.
- 3.Mrs.Mallika Banu,
No.9, Poonga Nagar,
Karumbu Kadai,
Coimbatore-8.

+1cc to M/S.N.Ishtiaq Ahamed, Advocate Sr.73444

Crl.R.C.No.1288 of 2013

srg 03/07/2019



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