

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1575 of 2013

1. Rajakumari

2. Anitha

3. Ambika

4. Master Manikandan

...Petitioners

Vs.

Periyannan

... Respondent

Prayer: The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure to set aside the order dated 20.10.2008 passed in Crl.M.P.No.4 of 2007 by the learned Judicial Magistrate, Alandur.

For Petitioner : No appearance

For Respondent : Notice not served

ORDER

This criminal revision has been filed seeking to set aside the order dated 20.10.2008, passed by the Judicial Magistrate, Alandur in Crl.M.P.No.4 of 2007.

2 The first petitioner is wife of the respondent and petitioners 2 to 4 are their children. The petitioner married the respondent on 15.09.1989 and due to the wed-lock three children were born. The respondent deserted the petitioners and he is living separately. Hence, the 1st petitioner filed a miscellaneous petition in Crl.M.P.No.4 of 2007 before the learned Judicial Magistrate, Alandur, under Section 125 Cr.P.C. seeking maintenance. The learned Magistrate, after considering the oral and documentary evidence, found that the respondent is a vegetable vendor and was earning Rs.60/- per day. Therefore, the learned Magistrate, by an order dated 20.10.2008, directed the respondent to pay a sum of Rs.300/- per month to each of the petitioners.

3 As against the order dated 20.10.2008, the petitioners are before this Court with the present criminal revision.

4 When the matter is called, there is no representation on behalf of the petitioners. Since this revision is pending from the year 2013 and it has been filed only for enhancement of maintenance, this Court went through the records to dispose of the revision on merits.

5 At the time of filing petition seeking maintenance, the respondent was a vegetable vendor and evidences show that he was earning Rs.60/- per day. But, a vegetable vendor, who is doing his business in a try-cycle, may not get Rs.60/- every day consistently and it may increase or decrease. Admittedly, the petitioners are not living with the respondent and the respondent has to meet out expenses for his food. However, considering the oral and documentary evidences, the learned Magistrate awarded a sum of Rs.300/- as maintenance per month to each of the petitioners. The petitioners have not filed any proof for the income of the respondent/husband, either in the petition, before the Magistrate or before this Court. In the absence of any materials, this court cannot take a different view. Furthermore, the revision is pending for more than a decade. At the time of filing of revision, the petitioners 2 to 4 were at the age of 18, 16 and 14 respectively and now they may got married or they may become earning person. Hence this Court, does not find any illegality or infirmity in the order of maintenance granted by the Court below and same does not warrants any interference.

6 In the result, the criminal revision is dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cgi

To

1. The Judicial Magistrate, Alandur.

2. Do through The Chief Judicial Magistrate, Egmore, Chennai.

Cr1.R.C.No.1575 of 2013

VD(CO)
CSL(CO)