

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2018

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.R.C.No. 1373 of 2011
and M.P. No. 1 of 2011

Aravindakshan

.. Petitioner
Vs.

1.Vimala

2.Minor Anirudh

3.Minor Abinanth

.. Respondents

Minor Respondents 2 & 3 are represented by
their Mother next friend Vimala

Criminal Revision filed under Sections 397 and 401
Cr.P.C. praying to call for the records and set aside the order
dated 27.05.2011 made in M.C. No. 120 of 2007 on the file of the
Family Court, Coimbatore by allowing this Criminal Revision
Petition.

For Petitioner : Mr.N.Manoharan

For Respondents : No Appearance

O R D E R

This revision has been filed by the respondent in
M.C. No.120/2007 on the file of the Family Court, Coimbatore
against the order dated 27.05.2011 passed by the Presiding
Officer, Family Court, Coimbatore.

2. The case of the petitioner is that the first
respondent has filed a case in M.C. No. 120/2007 for herself and
on behalf of 2nd & 3rd respondents, who are minors born to the
petitioner and the first respondent before the Family Court,
Coimbatore, seeking maintenance. After adopting all formalities
and after serving notices to all parties, the Family Court had

passed an order, directing the revision petitioner to pay maintenance of Rs.1,500/- to the first respondent and Rs.1,250/- each to the 2nd & 3rd respondents. Aggrieved over the same, the petitioner approached this Court.

3. It is an admitted fact that the revision petitioner and the first respondent are husband and wife. Further, at the time of filing maintenance case, the revision petitioner was working as driver in Qatar and the first respondent was working as staff in Coimbatore Municipal Corporation and the paternity of 2nd & 3rd respondents were not disputed by either side.

4. Under such circumstances, the learned counsel for the revision petitioner vehemently made submissions that as per the evidence given by the first respondent before the trial Court during cross examination as RW1, she categorically admitted that she received Rs.11,500/- as salary from Coimbatore Municipal Corporation. Further, she admitted that she has been working for the past 25 years. So, the sole evidence given by the first respondent clearly establishes that she is having sufficient income to maintain herself. Without noticing the said aspect, the learned Presiding Officer, Family Court, Coimbatore had passed an order that the first respondent is not in a position to maintain herself. But, in this case, the first respondent being the wife of the petitioner, herself admitted that she is having sufficient funds, thereby, the order passed by the learned Presiding Officer, Family Court, Coimbatore in M.C. No. 120 of 2007 is liable to be set aside in respect of the first respondent.

5. The learned counsel would further submit that the respondents 2 & 3 have now attained majority. So, it is not necessary to pay maintenance to the respondents 2 & 3. In this regard, as per the petitioner's submissions, the 2nd respondent Anirudh was born on 04.08.1996 and the 3rd respondent Abinanth was born on 29.05.1999. Now on considering the said submission of the petitioner, with the facts of the case, it is necessary to borne in mind that, when at the time the Respondents 2 & 3 were minors, the 1st respondent being the mother, had filed an application, claiming maintenance for her children also.

6. Since this revision was filed in the year 2011, conclusively, the respondents 2 & 3 are minors at the time of filing this Revision, hence, the arguments advanced by the learned counsel appearing for the revision petitioner with regard to the award passed in favour of the respondents 2 & 3, cannot be entertained. Accordingly, this Court comes to the

conclusion that the order passed by the Presiding Officer, Family Court, Coimbatore with regard to the payment of maintenance to the 1st respondent is set aside and with regard to the respondents 2 & 3, the same is hereby confirmed and this Court directs the revision petitioner to pay maintenance as per limitations fixed under Section 125 Cr.P.C. This Revision Petition is partly allowed. Consequently, the connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1. The Family Court Judge
Family Court, Coimbatore.

Copy to
The Section officer
Criminal Section
High Court, Madras 104.

+1 CC to Mr.V. Manokar, Advocate sr 36983.

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SP(07/06/2018)

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