

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2018

CORAM:

THE HON'BLE MR.JUSTICE N. ANAND VENKATESH

Criminal Revision Case No.1532 of 2011
and
M.P.No. 1 of 2011

Munusamy @ Chittibabu

... Petitioner

...Vs...

1.Rajeswari

2.Bhavani

....Respondents

PRAYER: Criminal Revision Petitions filed under Section 397 read with 401 of the Criminal Procedure Code, to set aside the order dated 27.08.2011 passed by the I Additional Family Court at Chennai and allow the CrI.R.C. and fix Rs.1500/- per month as a maintenance to the first respondent.

For Petitioner : Mr.R.Rajeshkumarr
For Respondent 1 : Mr.K.P.Pugazendhi
For Respondent 2 : Given up

O R D E R

This criminal revision petition has been filed by the husband aggrieved by the order of the I Additional Family Court, Chennai, in fixing the maintenance payable by the petitioner under Section 125 of Cr.P.C. at Rs.3,000/- per month to the respondent/wife.

2. The learned counsel for the petitioner submitted that the first respondent herself has deserted the petitioner and is not willing to join the petitioner. The learned counsel further submitted that earlier the first respondent filed a petition claiming maintenance before the Sub Court, Ponneri and the same was dismissed.

3. The learned counsel further submitted that the service of the petitioner has already terminated on 27.02.2009 and the petitioner has raised an industrial dispute in ID.No.282 of 2010, seeking for reinstatement with back wages and the same is pending. Under such circumstances, the learned counsel for the petitioner would submit that he does not have financial capability to pay a sum of Rs.3,000/- towards monthly maintenance to the first respondent.

4. There is no representation on the side of the respondents.

5. It is seen from records that the second respondent has become major. In her evidence, she has also stated that it is the petitioner, who conducted her marriage. It is also seen from the records that the petitioner was directed to deposit a sum of Rs.40,000/- towards arrears of maintenance and was also directed to pay a sum of Rs.1,500/- towards monthly maintenance, pending disposal of the revision petition. It is reported by the learned counsel for the petitioner that the petitioner has complied with said condition and till date the monthly maintenance of Rs.1,500/- has been deposited by the petitioner, which is being withdrawn by the first respondent.

6. The Court below which fixing the maintenance amount, has not taken into consideration the financial position of the petitioner and more particularly of the fact that he was terminated from service by his employer and an industrial dispute has been raised claiming for reinstatement with back wages and the same is pending. The Court below has only taken into consideration the fact that the maintenance amount should be fixed keeping in mind the status and the mode of life that the wife is used to living.

7. In the facts circumstances of the case, this Court deems it proper to fix a monthly maintenance of Rs.2,000/- payable by the petitioner to the first respondent starting from September 2018. The petitioner, is directed to pay the said amount directly to the first respondent.

8. Accordingly, the Criminal Revision Petition is partly allowed to the extent indicated above. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

nmm

To

The I Additional Family Court, Chennai.

+ 1 cc to Mr.R. Rajeshkumar, Advocate Sr.53874

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PP (CO)

EU (27/08/2018)