

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Cr1.R.C.No.912 of 2011

and

M.P.No.1 of 2011

Mr.Mohandas ...Petitioner/Respondent

..Vs..

Mrs.M.Vasantha ...Respondent/Petitioner

PRAYER: Criminal Revision Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to set aside the order dated 24.02.2011 made in C.M.P.No.167 of 2010 in M.C.No.124 of 2009 passed by the Judge of Family Court, Coimbatore.

For Petitioner : Mr.S.Rajeni Ramadoss

For Respondent : Mr.P.Saravanan

O R D E R

Heard both sides.

2. The respondent-husband has filed this Criminal Revision against the order of the interim maintenance granted in C.M.P.No.167 of 2010 dated 24.02.2011 in M.C.No.124 of 2009 by the Family Court, Coimbatore.

3. The main contention of the revision petitioner-husband is that two daughters have already attained majority and they are employed and son has also attained majority. However, without appreciating the factum of the above said majority attained by the daughters and son, the Family Court has passed the order awarding maintenance to them.

4. The learned counsel for the respondent-wife have drawn my attention to the provisions of Section 397(2) Cr.P.C to show that criminal revision before this Court is not

maintainable in respect of any order passed in an Interlocutory Application filed either in appeal or during trial proceedings. In support of his submissions learned counsel for the respondent-wife relied on the following judgments of the Bombay High Court and Jharkhand High Court.

(i) 1992 CrL.L.J 2605 (Smt.Mamta W/o.A.Vaidya Vs. Ashok M.Vaidya)

(ii) 2005(4) JCR 406 Jhr (Uttam Kumar Choubey Vs.Kiran Devi @ Kumari Kiran and others)

5. Taking note of the above decisions, the order dated 24.02.2011 passed in C.M.P.No.167 of 2010 is to be set aside and the entire matter is remitted back to the Family Court now i.e., Ist Additional Family Court, Coimbatore. Taking into the rival contentions raised before this Court, all the findings rendered in the previous orders in this revision shall stand vacated. Both the parties are directed to adduce evidence in the main case and the M.C itself has to be taken up for disposal. The Registry is directed to send all the records and back papers to the Family Court within a period of two weeks from the date when this order is made ready and the Family Court is hereby directed to dispose the main case within a period of eight weeks from the date of receipt of the records from this Court. Both the parties shall appear on the date fixed by the Court below.

6. With the above directions, this Criminal Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

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Sub Assistant Registrar

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To

1.The Judge,
Family Court, Coimbatore

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2.The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.P.Saravanan, Advocate sr.no.65113
+1cc to Mr.S.Rajeni Ramadoss, Advocate sr.no.65075

Cr1.R.C.No.912 of 2011 and
M.P.No.1 of 2011

kk(co)
nr 27/09/2018



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