

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.648 of 2013

M.Mariammal

...Petitioner

Vs.

B.Muthu

... Respondent

Prayer: The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the order dated 05.02.2013 made in M.P.No.857 of 2009 in M.C.No.446 of 1993 by the learned II Additional Principal Judge, Family Court, Chennai.

For Petitioner : Mr.S.Francis Ashok

For Respondent : Ms.A.Madhumathi

ORDER

This criminal revision has been filed against the order dated 05.02.2013 made in M.P.No.857 of 2009 in M.C.No.446 of 1993 by the learned II Additional Principal Judge, Family Court, Chennai.

2 The petitioner is wife and respondent is husband. The petitioner along with his son, filed maintenance case in M.C.No.446 of 1993 against the respondent/husband, wherein, Rs.300/- for the petitioner and Rs.200/- for her son, was granted as maintenance. Later, the petitioner filed M.P.No.62 of 2002, seeking enhancement of the above maintenance and by order dated 10.10.2002, the Family Court had enhanced the maintenance for the petitioner from Rs.300/- to Rs.1000/- and for the son it was enhanced from Rs.200/- to Rs.750/-. Thereafter, again the petitioner filed a petition in M.P.No.857 of 2009 seeking to enhance the above maintenance, and by order dated 05.02.2013, the II Additional Family Court, Chennai, enhanced the maintenance for the petitioner/wife from Rs.1000/- to Rs.2000/-.

3 Aggrieved against the above enhancement of maintenance by order dated 05.02.2013, the wife has preferred this criminal revision before this Court.

4 The learned counsel for the petitioner/wife would submit that on the date of filing of petition in M.P.No.857 of 2009, seeking enhancement of maintenance, the respondent was working in Railway Department and was earning Rs.20,000/- p.m., but, the Court granted Rs.2000/- only as maintenance. The Family Court failed to consider the cost of living prevailing on that day and ordered only a meagre amount of Rs.2,000/-, which is not at all sufficient to maintain herself. Further the respondent got retired from his service in the year of 2017 only. Hence the petitioner/wife sought to enhance the maintenance of Rs.2,000/- granted by the Family Court.

5 The learned counsel appearing for the respondent/husband would submit that the respondent has retired from his service. Further, because of the relief sought for in the civil suit filed by the petitioner/wife, not to disburse the pension benefits to the respondent/husband, disbursement of pension was also stayed and therefore, the respondent/husband has no source of income to pay the maintenance as ordered by the Family Court.

6 Heard the learned counsel appearing on either side and perused the materials available on record.

7 On a perusal of the records it reveals that on the date of filing of petition, seeking enhancement of maintenance, the respondent/husband was working in the Railway Department and he retired from his service in the year of 2017. The petitioner/wife has not produced any proof for the actual income earned by the respondent/husband and the pension details was also not filed before the Court. However, considering the cost of living prevailing on the date of passing of the order, this Court is of the view that the maintenance amount of Rs.2,000/- ordered by the Family Court, is very meagre and it is very difficult for the women to maintain herself. It is also submitted that since the petitioner/wife has filed a civil suit, seeking not to disburse the pension benefits, the respondent/husband is also not receiving any pension.

8 Considering the economic status of both the parties and the cost of living, this Court is inclined to enhance the maintenance granted by the Family Court. Accordingly, the maintenance amount of Rs.2,000/- is hereby enhanced to Rs.5,000/- p.m. from the date of filing of M.P.No.857 of 2009 till the date of retirement of the respondent/husband from his service and to pay a sum of Rs.4,000/- p.m. from the date of retirement of the respondent/husband. The respondent/husband is further directed to pay entire arrears of maintenance forthwith to the petitioner/wife and to pay monthly maintenance of Rs.4,000/- on or before 5th of every English calendar month.

9 With the above directions, the criminal revision is disposed of.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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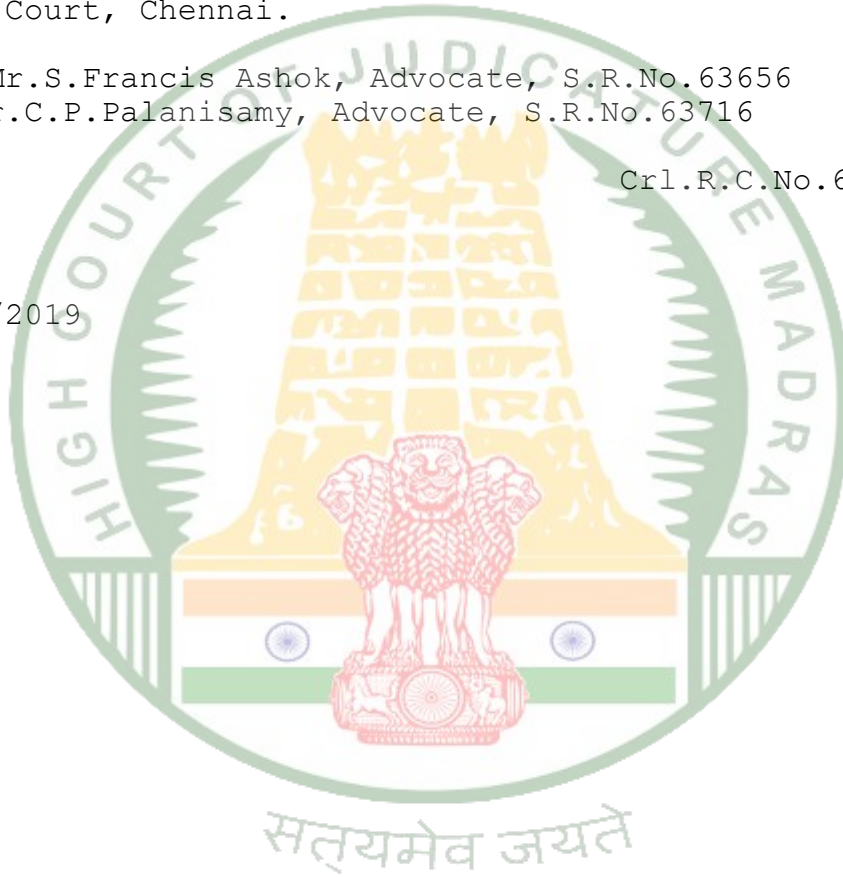
The II Additional Principal Judge,
Family Court, Chennai.

+2ccs to Mr.S.Francis Ashok, Advocate, S.R.No.63656
+1cc to Mr.C.P.Palanisamy, Advocate, S.R.No.63716

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PPA (CO)

rrs 11/03/2019



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