

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Criminal Revision No.1334 of 2014
and
M.P.No.1 of 2014

Dhandapani .. Petitioner/Respondent

Vs

1.Minor. Sindhiga
D/o. Dhandapani,
Rep. by guardian
Nagarathinam.

2.Minor Chithiran,
D/o. Dhandapani,
Rep. by guardian
Nagarathinam.

... Respondent/Complainant

Prayer:- Criminal Revision filed under Sections 397 r/w 401 Cr.P.C., to call for the records in M.C.No.6 of 2013, dated 05.12.2014 on the file of the learned Judicial Magistrate No.II, Pollachi and set aside the same.

For Petitioner : Mr.C.Veeraraghavan

For Respondents : Mr.M.E.V.Thulasi for
Mr.T.S.N.Prabhakaran

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O R D E R

The present criminal revision has been filed against the order dated 05.12.2014 passed in M.C.No.6 of 2013 by the learned Judicial Magistrate No.II, Pollachi.

2.The petitioner is the husband and the respondents are the minor daughters of the petitioner.

3.The respondent married one Shanthi, the mother of the respondents and thereafter she died leaving behind two children. The minor respondents are in the custody of the maternal grandmother. The maternal grandmother, who is the guardian of the minor respondents, has no means to maintain herself, the petitioner, who is the biological father of the minor respondents, is liable to maintain his minor daughters. Since the petitioner is working in Punjab National Bank, the minor respondents, represented by their guardian, filed M.C.No.6 of 2013 seeking maintenance under Section 125 of Cr.P.C. The learned Magistrate after enquiry and after perusing the witnesses and documents available on record, by order dated 05.12.2014 allowed the petition by granting a sum of Rs.5,000/- per month to each of the minor daughters as maintenance.

4.Aggrieved against the order dated 05.12.2014 passed by the learned Judicial Magistrate No.II, Pollachi, the petitioner filed the criminal revision before this Court.

5.The learned counsel for the petitioner submitted that the petitioner is earning only a sum of Rs.17,000/-. Therefore, the petitioner is not in a position to pay Rs.10,000/- per month out of Rs.17,000/-. The learned Magistrate, without considering the salary certificate produced by the petitioner, granted a sum of Rs.5,000/- each to the minor respondents. Therefore, the impugned order passed by the learned Judicial Magistrate is liable to be set aside.

6.The learned counsel appearing for the respondents/minor children submitted that the petitioner, who is father of the minor respondents, married the mother of the minor respondents. After her death, the minor respondents are under the custody of the maternal grandmother (mother of the deceased). The petitioner, who is the father of the minor respondents, has not maintained his daughters till date. But, the maternal grandmother has maintained her grand daughters/minor respondents till date and due to the old age, she is not able to meet out the expenses for them as she has no means. Therefore, the minor respondents filed M.C.No. 6 of 2013 on the file of the learned Judicial Magistrate No.II, Pollachi seeking maintenance. The learned Magistrate, after hearing both sides and after perusing the documents available on record, has rightly allowed the same by granting a sum of Rs.5,000/- per month each to the minor daughters as maintenance. Hence, there is no need to interfere with the impugned order passed by the Court below.

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

8.On a perusal of records, it is seen that there is no dispute with regard to the marriage and fraternity of the minor children of the petitioner and the respondent. It is also not in dispute that the minor respondents are under the custody of the maternal grandmother.

9.It is further seen that the salary certificate produced by the petitioner before the learned Magistrate shows that the petitioner is earning a sum of Rs.39,572/- per month and after deducting a sum of Rs.19,459.00 [the deductions], he received a sum of Rs.20,113.92 per month. Even after deductions, he can be able to pay certain amount to the minor respondents towards maintenance. The learned Magistrate, after analysing the salary certificate of the petitioner and also considering the cost of living, has rightly awarded a sum of Rs.5,000/- each per month as maintenance. Therefore, there is no error and no perversity in the impugned order passed by the learned Magistrate, Pollachi. Hence, this Court is inclined to dismiss the criminal revision petition.

10.The petitioner is directed to pay entire arrears from the date of filing of M.C.No.6 of 2013 till today after deducting the payment, if any, already made, forthwith from the date of receipt of a copy of this order.

11. In the result, the criminal revision is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

cla
To

1. The Judicial Magistrate No.II,
Pollachi.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.T.S.N.Prabhakaran , Advocate SR.No. 70449

+1cc to Mr.C.Veeraraghavan , Advocate SR.No. 70084

CrI.R.C.No.1334 of 2014

A.SK(11/03/2019)