

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.08.2018

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI..O.P. No.19425 of 2018 &
CrI.M.P.Nos.10276 & 10277 of 2018

K. David Ranjithkumar

Petitioner

Vs.

Minor Yuktika,
Rep. by her next friend and guardian
Mother - N. Revathi
Wife of Premkumar
Door No.76/27
Palakkad Main Road, Pollachi
Coimbatore

Presently residing at:
182/86, Behind Valluvar Theatre
Anna Nagar
R.F. Road, Palani, Dindigul - 624 601

Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., seeking to call for the records and set aside the order dated 28.03.2018 passed by the V Additional District and Sessions Judge, Coimbatore in CrI.R.P. No.23 of 2017 against M.C. No.10 of 2011 dated 26.04.2017 on the file of the Judicial Magistrate No.I, Pollachi.

For petitioner Ms.Sriprada Prabhakar

ORDER

This Criminal Original Petition has been preferred seeking to call for the records and set aside the order dated 28.03.2018 passed by the V Additional District and Sessions Judge, Coimbatore in CrI.R.P. No.23 of 2017 against M.C. No.10 of 2011 dated 26.04.2017 on the file of the Judicial Magistrate No.I, Pollachi.

2 For the sake of convenience, the parties are referred to by their name.

3 The facts in brief leading to the filing of this Criminal Original Petition are as under:

3.1 Through a live in relationship between David Ranjithkumar and Revathi, Yuktika was born. Revathi and David Ranjithkumar got estranged and therefore, Revathi filed M.C.No. 10 of 2011 before the Judicial Magistrate No.I,

Pollachi under Section 125 Cr.P.C. claiming maintenance for Yuktika.

3.2 On notice, David Ranjithkumar entered appearance and contested the case. Before the Trial Court, Revathi examined herself as P.W. 1 and marked 5 documents. On behalf of David Ranjithkumar, 3 witnesses were examined including himself as R.W. 1 and one exhibit was marked.

3.3 After considering the evidence the adduced by the parties, the Trial Court, by order dated 26.04.2017 in M.C.No.10 of 2011, awarded a sum of Rs.10,000/- per month payable by David Ranjithkumar from the date of the petition.

3.4 Challenging the said order, David Ranjithkumar filed Crl.R.P.No.23 of 2017 which was heard by the V Additional District & Sessions Judge, Coimbatore, who, by order dated 28.03.2018, though held that Yuktika is entitled to maintenance, yet, reduced the maintenance amount from Rs.10,000/- to Rs.7,000/- per month from the date of filing of M.C.No.10 of 2011.

3.5 Challenging the orders passed by the courts below, David Ranjithkumar is before this court.

4 The learned counsel for David Ranjithkumar submitted that on account of various prosecutions launched against David Ranjithkumar by Revathi, he had lost his job and therefore, he has no means to pay the maintenance. She took this Court through the order of dismissal dated 08.05.2018, which shows that David Ranjithkumar was dismissed from service since he was convicted in AWPS Cr.No.12 of 2011 for the offences under Sections 498-A, 406, 420, 506(I) IPC. Hence, the learned counsel submitted that when David Ranjithkumar has no job, he may not be in a position to pay the maintenance.

5 This Court gave its anxious consideration to the submissions made by the learned counsel for David Ranjithkumar.

6 It is seen that David Ranjithkumar has invoked the revisional jurisdiction of the Sessions Court under Section 397(1) Cr.P.C. and therefore, he is precluded from filing a second revision in view of the bar under Section 396(3) Cr.P.C. However, a petition under Section 482 Cr.P.C. is maintainable if it is shown that the orders passed by the Courts below are beyond jurisdiction or patently illegal. In this case, the Judicial Magistrate-I, Pollachi, has the jurisdiction under Section 125 Cr.P.C. Similarly, the V Additional District and Sessions Judge, Coimbatore, also has the jurisdiction under Section 397 Cr.P.C. to maintain the revision application. Hence, it cannot be stated that the Courts below did not have the jurisdiction at all. Both the Courts below have appraised the evidence on record and have held that Yuktika is the daughter of David Ranjithkumar and

that he is bound to pay her maintenance. However, the Revisional Court has reduced the maintenance from Rs.10,000/- to Rs.7,000/-.

7 As regards the contention of the learned counsel that David Ranjithkumar has lost his job and therefore, he may not be in a position to make payment of maintenance, this Court is of the view that disputed questions of fact cannot be looked into in a petition under Section 482 Cr.P.C. On facts, when both the Courts below have held that David Ranjithkumar has means to pay the maintenance, the same cannot be upset on the ground that now he has lost his job.

8 Under such circumstances, this Court is of the view that this is not a fit case in which the orders passed by the Courts below lack jurisdiction or they are ex facie illegal, warranting interference in exercise of powers under Section 482 Cr.P.C.

In the result, this Criminal Original Petition is dismissed as being devoid of merits. Connected Crl.M.Ps. are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

cad/sni
To

- 1 The Judicial Magistrate-I
Pollachi
- 2 The V Additional District & Sessions Judge
Coimbatore.

+ 1 cc to MR. M. Aravind Subramaiaam, Advocate SR.53477

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Crl.O.P.No.19425 of 2018

AK(CO)
EU(21/08/2018)