



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C(MD)No.153 of 2018

and

Crl.M.P(MD) No.2084 of 2018

1.Rajendran

2.Parvathy Ammal ... Petitioners/Appellants/Respondents

Vs.

Ambikavathy ...Respondent/Respondent/Petitioner

PRAYER: Revision filed under Section 397 r/w.401 of the Code of Criminal Procedure, to call for the records pertaining to the judgment in C.A.No.40 of 2016 on the file of the I Additional District and Sessions Judge, Tirunelveli date 07.11.2017 confirming the judgment passed in D.V.O.P. No.29 of 2012 on the file of the Judicial Magistrate, Vallioor dated 15.04.2016 and set aside the same.

For Petitioners : Mr.T.A.Ebenezer

For Respondent : No appearance

ORDER

The first petitioner is the husband of the respondent. The trial court had permitted him to pay Rs. 3000/- towards house rent and Rs.50,000/- for household articles and Rs.3,000/- for monthly maintenance.

2. Aggrieved by that he has preferred an appeal Challenging the order passed by the learned Judicial Magistrate, Valliyoer in D.V.O.P No.29 of 2012 dated 15.04.2016 has been dismissed by the I Additional District Sessions Judge, Tirunelveli as devoid of merits in Crl.A.No. 40 of 2016 dated 07.11.2017.

3. Challenging the said order of awarding maintenance the present revision petition is filed challenging the order passed regarding monthly rent of Rs.3000/- and Rs.50,000/- for household articles.

4. It is submitted by the learned counsel for the revision petitioner that he is paying the Rs. 3000/- towards maintenance and the respondent has not preferred any appeal for the quantum of



maintenance fixed by the trial court.

5. As far as the award of Rs. 3000/- towards house rent and Rs.50,000/- towards household articles, it is contended by the counsel that the respondent herein voluntarily deserted the petitioner and living with her mother and both minor children under the care and custody of the revision petitioner who is apart from taking care of his children also is bound to take care of the aged mother who is second petitioner herein. It is also submitted by the counsel that admittedly respondent is living with his mother, the order of the court below to pay Rs.3000/- for house rent and Rs.50,000/- for household articles is perverse.

6. Though notice was served to the respondent she has neither appeared in person nor engaged counsel .

7. A perusal of the order passed by the courts below drizzles with infirmity and perversity on the short point that whether a separate household articles to be established at the cost of the first petitioner herein when the respondent has not only deserted the petitioner but also her two minor children on her own accord and voluntarily living with her mother.

8. Hence the court is of the view that the portion of the award in DVOP as confirmed by the appellate court has to be relooked sofar the order regarding monthly rent and lump sum for household articles. Accordingly the said portion of the order passed by the trial court as confirmed by the appellate court is set aside. Instead the maintenance amount fixed at Rs.3000/- is enhanced to Rs.4000/- per month which will adequately take care of the necessity of the first respondent.

9. With this direction, the Criminal Revision Petition is disposed of. The enhanced maintenance shall be paid from 12.09.2012. The arrears shall be paid within a period of 45 days from today. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(WRITS)

/True Copy/

Sub Assistant Registrar(CS-I)

aav
To



2. The Judicial Magistrate
Valliyoor.

3. The Chief Judicial Magistrate,
Tirunelveli.

+1cc to Mr.T.A.Ebenezer, Advocate in SR No.83293

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NM/PM/SAR 1/11.10.18/3P/5C