



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 05.07.2018

DELIVERED ON : 17.07.2018

WEB COPY

CORAM :

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.R.C.(MD) No.182 of 2018

and

Crl.M.P.(MD)No.2605 of 2018

Anand

... Petitioner

vs.

1.Sri Pathri @ Akila

2.Minor Durgashree

3.Minor Shrisha

... Respondents

Prayer:- Criminal Revision Petition filed under Sections 397 r/w. 401 & 482 of the Code of Criminal Procedure, 1973, to call for the records from the lower Court and to set aside the order of maintenance made in M.C.No.44 of 2016 dated 22.12.2017 on the file of the Family Court, Virudhunagar District at Srivilliputtur.

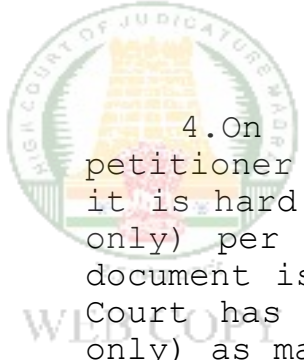
For Petitioner	: Mr.M.Thirunavukkarasu
For Respondents	: Mr.T.Thangamani

ORDER

Heard Mr.M.Thirunavukkarasu, learned counsel appearing for the petitioner and Mr.T,Thangamani, learned counsel appearing for the respondents.

2.This petition has been filed to set aside the order of maintenance made in M.C.No.44 of 2016 dated 22.12.2017 on the file of the Family Court, Virudhunagar District at Srivilliputtur.

3.The marriage between the petitioner and the respondent was solemnized on 16.02.2011 at the Murugan Temple in Thirupparankundram. The second and third respondents are children of the petitioner. The first respondent herein filed a maintenance petition in M.C.No.44 of 2016 on the file of the Family Court, Srivilliputtur and the lower Court directed the petitioner herein to pay a sum of Rs.3,000/- (Rupees Three Thousand only) per month to the first respondent from the date of order and to pay a sum of Rs.3,000/- (Rupees Three Thousand only) each per month to the second and third respondents from the date of the order till they attain majority.



4. On the side of the petitioner, it is stated that the petitioner is an Astrologer. He is not having sufficient income and it is hard for him to pay a sum of Rs.9,000/- (Rupees Nine Thousand only) per month. The trial Court has failed to consider that no document is filed by the petitioner to prove his income. The Family Court has already ordered to pay Rs.6,000/- (Rupees Six Thousand only) as maintenance to the first respondent in the divorce petition filed by the petitioner in I.A.No.115 of 2016 in H.M.O.P.No.95 of 2015 dated 14.09.2016.

5. On the side of the first respondent, it is stated that the petitioner has to maintain the minor children. The minor children who are 3 years and 1 year old, are hard to be maintained with a sum of Rs.9,000/- (Rupees Nine Thousand only) per month. The order was passed for payment from the date of order instead of from the date of filing of the petition and further prayed that the maintenance amount has to be enhanced.

6. Records perused. On the side of the petitioner, it is stated that the petitioner is an Astrologer and no documentary evidence has been produced by the respondent for proving his income. The income of an Astrologer cannot be ascertained by way of document. On the side of the petitioner, it is stated that the Family Court has already passed an order in the divorce petition to pay a sum of Rs.6,000/- (Rupees Six Thousand only) to the first respondent herein.

7. The factum of the marriage and the paternity of the children were not disputed by the petitioner. It is the duty of the petitioner to maintain his wife and children. Considering the age of the minor children and considering the present day expenses, the order passed by the Family Court is correct and there is nothing to interfere in the order passed by the lower Court. This Criminal Revision Petition is dismissed. Consequently, CrI. M.P.(MD)No.2605 of 2018 is closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-II)

To
The Judge,
Family Court, Virudhunagar District at Srivilliputtur.

+1cc to M/S.M.Thirunavukkarasu, Advocate SR.No. 73169

CrI.R.C.(MD) No.182 of 2018
17.07.2018