



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.R.C. (MD) No.40 of 2018
and

Crl.M.P. (MD) No.429 of 2018

Yovi

: Petitioner

Vs.

1.Latha Ranjitha Bai

2.Stephen Raj

3.Abisha

: Respondents

PRAYER: Criminal Revision Case is filed under Sections 397 and 401 of the Criminal Procedure Code praying to call for the records relating to the judgment in M.C.No.33 of 2013 on the file of the learned Chief Judicial Magistrate, Kanyakumari District at Nagercoil, dated 12.03.2014 and set aside the same by allowing the present Criminal Revision Case.

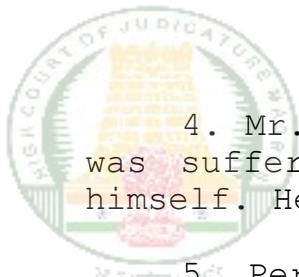
For Petitioner : Mr.C.T.Perumal

For Respondents : Mr.R.Manimaran

ORDER

For the sake of convenience, the parties will be referred to by their name.

2. Latha Ranjitha Bai got married to Yovi on 21.11.2001 and they have two children - Stephen Raj and Abisha through the wedlock. Their marriage ran into rough weather resulting in the spouses getting estranged. Latha Ranjitha Bai initiated proceedings under Section 125 of the Code of Criminal Procedure in M.C.No.33 of 2013 before the learned Chief Judicial Magistrate, Kanyakumari District at Nagercoil, claiming maintenance for herself and for her two children from her husband Yovi. Notice was sent to the last known residence of Yovi, but, however, he did not appear. Thereafter, publication in the local newspapers were made and after taking the evidence of Latha Ranjitha Bai and the documents marked by her, the Trial Court has, by order dated 12.03.2014, in M.C.No.33 of 2013, directed Yovi to pay Rs.2,000/- per month to his wife-Latha Ranjitha Bai and Rs.1,500/- per month to the children, thus, totalling to Rs.5,000/- per month for all the three. Challenging the order passed by the learned Magistrate, Yovi has filed the present Criminal Revision Case with an enormous delay of 1261 days. This Court has condoned the delay in Crl.M.P.(MD)No.10881 of 2017 and taken up the main Criminal Revision Case for disposal.



4. Mr.C.T.Perumal, learned counsel for Yovi submitted that Yovi was suffering from Hernia and that he has no means to maintain himself. He submitted that Yovi is not gainfully employed.

5. Per contra, the learned counsel for the respondents refuted the contentions.

6. It is an admitted fact that Latha Ranjitha Bai is the wife of Yovi and that two children were born to him. He has not denied the paternity. It is the contention of Mr.C.T.Perumal that an opportunity should be given to Yovi to contest the maintenance proceedings and show that he has no means to make the payment.

7. The point for determination in a proceedings under Section 125 of the Code of Criminal Procedure falls in a very narrow campus, viz., whether the husband had failed and neglected to maintain his wife and children? and if so, what should be the quantum of maintenance?

8. In this case, even according to Yovi, he was not available in the house and had shifted elsewhere. Therefore, he could not be traced resulting in the trial Court ordering publication of notice in the local newspapers. Only after the orders were passed, Yovi has surfaced and has filed the present Criminal Revision Case. Thus, it is clearly established that Yovi had failed and neglected to maintain his wife and children. Had he been in the Village or had he lived in an address known to the wife, notice would have been served on him. Therefore, the Trial Court was right in holding that Yovi had failed and neglected to maintain his wife and children.

9. As regards the quantum of maintenance, the Trial Court has awarded a paltry maintenance of Rs.5,000/- per month for all the three and Yovi cannot be heard to say that he cannot pay this amount. Taking into consideration the cost of living index, the amount of Rs.5,000/- awarded by the Trial Court is indeed very low and does not warrant interference.

10. In the result, this revision is devoid of merits and accordingly, the same is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To
The Chief Judicial Magistrate, Kanyakumari District at Nagercoil.

Order made in
Crl.R.C. (MD) No.40 of 2018
Dated:-19.01.2018