



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.R.C.(MD) No.41 of 2018
and
Cr1.M.P.(MD) No.448 of 2018

Srinivasan

... Petitioner / Respondent

vs.

Minor.Saswath
(rep.through his grandmother
Tmt.Rajeshwari)

... Respondent / Petitioner

PRAYER: Criminal revision filed, under Section 397 r/w 401 Cr.P.C., to call for the records connected with the order, dated 04.12.2017 in M.C.No.16 of 2017, on the file of the Family Court, Sivagangai and to set aside the same.

For Petitioner : Mr.L.M.Vijay Boominathan
for Mr.R.Alagumani

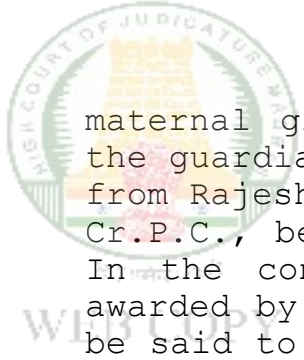
O R D E R

It is seen that in M.C.No.16 of 2017, the Family Court, Sivagangai, has awarded maintenance of Rs.2,500/- per month payable by the petitioner to his son Minor.Saswath. Further, it is seen that the petitioner's wife and Minor.Saswath's mother had died by consuming poison. After her death, the child is being brought up by the maternal grandmother Rajeshwari. Admittedly, the paternity of the child is not in dispute.

2. The learned counsel for the petitioner submitted that the petitioner has initiated guardian proceedings to obtain custody of Minor.Saswath and the same is pending. While so, the Family Court ought not to have awarded maintenance.

3. This Court gave its anxious consideration to the submissions of the learned counsel for the petitioner.

4. Pendency of guardian proceedings cannot be a bar under Section 125 Cr.P.C., to award maintenance for a separated wife and children. In this case, the minor boy is being brought up by his



maternal grandmother - Rajeshwari. If the petitioner succeeds in the guardian proceedings and takes back the custody of Minor.Saswath from Rajeshwari, he can very well file application under Section 127 Cr.P.C., before the Family Court for alteration of the maintenance. In the considered opinion of this Court, the sum of Rs.2,500/- awarded by the Family Court in today's cost of living index cannot be said to be excessive. After all, the boy should study in a good School, for which fees will have to be paid. In such circumstances, this Court does not find any infirmity in the impugned order passed by the Family Court warranting interference from this Court.

5. With the above observations, the criminal revision stands closed. However, the petitioner is at liberty to pay arrears of maintenance amount, if any, in four equal monthly installments from February, 2018. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To:
The Judge,
Family Court,
Sivagangai.

+1CC to Mr.R.Alagumani, Advocate, SR.No. 43925

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