



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C. (MD)No.80 of 2018

and

Crl.M.P. (MD)No.1019 of 2018

S.R.Vijayakumar

: Petitioner

Vs.

1.Vanitha

2.Minor.Prasanavenkatesh

[Minor 2nd respondent represented

through the first respondent/his mother/guardian]

: Respondents

PRAYER: Criminal Revision Case is filed under Section 397 and 401 of the Criminal Procedure Code praying to set aside the order passed by the learned Principal District Judge, Pudukkottai, in Crl.R.C.No.5 of 2015 dated 18.01.2017 thereby enhanced maintenance award passed by the learned Judicial Magistrate, Aranthangi, in M.C.No.4 of 2013, dated 05.12.2014.

For Petitioner

: Mr.P.Ganapathi Subramanian

For Respondents

: Mr.N.Tamilmani.

ORDER

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

2. Vanitha got married to Vijayakumar on 01.11.2006 and during the marriage, they have a child Prasanavenkatesh. On account of matrimonial discord, the spouses got estranged resulting in Vanitha filing M.C.No.4 of 2013 before the learned Judicial Magistrate, Aranthangi, under Section 125 of the Code of Criminal Procedure against Vijayakumar claiming maintenance for herself and her son.



The Trial Court, by order dated 05.12.2014, in M.C.No.4 of 2013, directed Vijayakumar to pay Rs.1,000/- each per month as maintenance (totally Rs.2,000/- per month). Aggrieved by the order, Vanitha filed Cr1.R.C.No.5 of 2015 before the Sessions Court. The learned Principal District Judge, Pudukkottai, by order dated 18.01.2017 in Cr1.R.C.No.5 of 2015, enhanced the maintenance amount from Rs.2,000/- to Rs.5,000/- per month (Rs.2,000/- per month for Vanitha and Rs.3,000/- per month for Prasanavenkatesh) and also directed the petitioner to pay Rs.5,000/- each per year for purchase of dress and other articles. He was further directed to pay the enhanced maintenance from 01.01.2015. Challenging the order of maintenance, Vijayakumar filed the present Criminal Revision Case with a delay of 207 days. This Court condoned the delay on Vijayakumar depositing Rs.1,30,000/- towards arrears of maintenance. Hence, the revision is being heard.

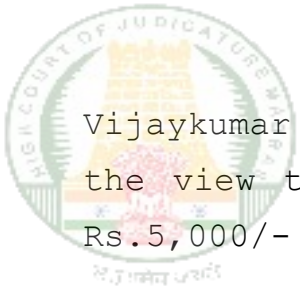
3. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

4. The learned counsel for the petitioner submitted that Vijayakumar is working only as a Computer Teacher in a Government School at a consolidated salary of Rs.7,000/- and that he has to take care of his aged parents who are diabetics.

5. Per contra, the learned counsel for the respondents submitted that with Rs.5,000/- per month, it will not be even possible for Vanitha to pay the fees for the child.

6. This Court gave its anxious considerations to the rival submissions.

7. In the considered opinion of this Court, the order passed by the learned Sessions Judge enhancing the maintenance to Rs.5,000/- cannot be said to be totally incorrect or improper, taking into consideration the today's cost of living index. However, since



Vijaykumar has to take care of his aged parents, this Court is of the view that it will be in the interest of justice, if a sum of Rs.5,000/- awarded is reduced to Rs.4,000/-.

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8. Accordingly, the order dated 18.01.2017 in Cr1.R.C.No.5 of 2015 is modified to the effect that a sum of Rs.5,000/- awarded is reduced to Rs.4,000/- at the rate of Rs.2,000/- per person per month from 01.03.2018 and a sum of Rs.5,000/- awarded each per year for purchase of dress and other materials for the respondents as passed by the Sessions Court is not modified.

9. The Criminal Revision Case is allowed to the extent indicated above. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1.The Principal Distrit Judge,
Pudukkottai.

2.The Judicial Magistrate,
Aranthangi.

+1cc to M/S.P.GANAPATHI SUBRAMANIAN, Advocate SR.No.48036.
+1cc to M/S.N.TAMILMANI, Advocate SR.No.48066.

Order made in
Cr1.R.C. (MD) No.80 of 2018
13.02.2018

SML
SDS/JC/SAR 3/23.02.2018/3P/5C