



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 04.04.2018

CORAM
THE HONOURABLE MRS. JUSTICE R. THARANI

Cr1. R.C.(MD)No.486 of 2015

WEB COPY

1.Petchiammal

2.Minor Karthiga
(1st Petitioner on her behalf
and as a guardian of 2nd Petitioner)
Vs.

.. Petitioners/Petitioners

Rathinakumar

.. Respondent/Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to set aside the order dated 09.07.2015 in M.C.No.31 of 2011 on the file of the Chief Judicial Magistrate, Tuticorin.

For Petitioners

: Mr.N.Anandakumar

For Respondent

: Mr.N.Pandivel Rajan

ORDER

Heard Mr.N.Anandakumar, learned counsel appearing for the petitioners and Mr.N.Pandivel Rajan, learned counsel appearing for the respondent.

2.This appeal has been filed to set aside the order passed dated 09.07.2015 in M.C.No.31 of 2011 on the file of the Chief Judicial Magistrate, Tuticorin.

3.On the side of the petitioners, it is stated that the lower Court has awarded maintenance for the second petitioner, however the lower Court failed to award maintenance for the first petitioner on the ground that the first petitioner got second marriage. The lower Court in its order dated 09.05.2015 in Paragraph No.13 has decided that there is no specific denial on the part of the first petitioner regarding marriage. It is stated that the respondent failed to mention on what date the first petitioner got marriage and to whom she got married and the lower Court is wrong in deciding that the first petitioner got second marriage merely on the basis of vague allegation stated by the respondent. Hence, the order of the learned Chief Judicial Magistrate, Tuticorin in M.C.No.31 of 2011 dated 09.07.2015 is libale to be set aside. On the side of the petitioners, it is stated that the respondent failed to pay the maintenance for the minor, the respondent failed to pay the maintenance amount till date.



4. On the side of the respondent, it is stated that the respondent in advance has admitted that the respondent failed to pay maintenance for the minor since he was suffering from some disease.

5. Records perused. The lower Court has failed to consider that the respondent herein has not stated the date on which the first petitioner got married and whom she has married. The paternity regarding the second petitioner is not denied by the respondent. The disease by which the respondent suffered is not mentioned. No medical report is filed to prove the same. In these circumstances, the respondent is duty bound to pay maintenance for the petitioners. Hence, this Court directs the respondent to pay a sum of Rs.1,500/- towards maintenance for the first petitioner and a sum of Rs.2,500/- towards maintenance for the second petitioner and the amount has to be paid on or before 10th of every English Calender month and the respondent is liable to pay arrears of maintenance from the date of filing of the petition before the lower Court within a period of six months from the date of receipt of copy of this order. As paying maintenance is an obligation, the payment of arrears is not affected by limitation.

6. With the above observation, this Criminal Revision Case is allowed. The Registry is directed to send a copy of this order to the concerned Judicial Magistrate forthwith.

Sd/

Assistant Registrar(Crl side)

/True copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate, Tuticorin.

+1cc to Mr.V.MALAIYENDRAN, Advocate, SR.No.59780

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MRN

KK/JC/SAR-2/19.06.2018/2P-3C