



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	Pronounced on
12.03.2018	19.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.(MD)No.109 of 2017

and

Crl.M.P.(MD)Nos.1885 and 1886 of 2018

Mohanakannan

: Petitioner

Vs.

1.Sri Rengam

2.Minor.Vigneshkumar

[Minor represented through the first
respondent as mother and guardian]

: Respondents

Prayer: Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C., to call for the records in M.C.No.38 of 2016 pending before the learned Family Judge, Tirunelveli, and set aside the order passed by the learned Family Judge in M.C.No.38 of 2016 dated 07.11.2016 by allowing the revision petition.

For Petitioner

: Mr.S.Siva Ilayaraja

For Respondents

: Mr.V.Rajiv Rufus

O R D E R

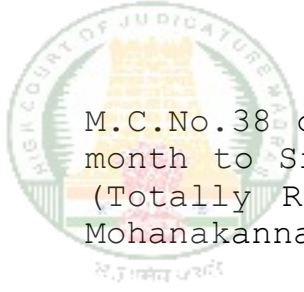
For the sake of convenience, the parties will be referred to by their name.

2. Mohanakannan got married to Sri Rengam on 17.11.1996 and they have one child, namely, Vigneshkumar [the second respondent herein] through the wedlock. Since their marriage ran into rough weather, the spouses got estranged. Sri Rengam initiated proceedings under Section 125 of the Code of Criminal Procedure in M.C.No.38 of 2016, before the Family Court, Tirunelveli, against Mohanakannan, claiming maintenance of Rs.20,000/- per month for herself and for her minor son, namely, Vigneshkumar. Mohanakannan entered appearance and contested the claim.

3. On behalf of Sri Rengam, she examined herself as P.W.1 and marked 5 Exhibits as Exs.P.1 to P.5. Mohanakannan examined himself as R.W.1 and did not mark any document.

<https://hcservices.ecourts.gov.in/hcservices/>

4. After considering the evidence adduced by both parties, the Family Court, Tirunelveli, by order dated 07.11.2016 in



M.C.No.38 of 2016, has directed Mohanakannan to pay Rs.10,000/- per month to Sri Rengam and Rs.10,000/- per month to Minor Vigneshkumar (Totally Rs.20,000/-) as maintenance. Challenging the said order, Mohanakannan is before this Court.

5. Heard Mr.S.Siva Ilayaraja, learned counsel appearing for Mohanakannan and Mr.V.Rajiv Rufus, learned counsel appearing for Sri Rengam and her son Minor.Vigneshkumar.

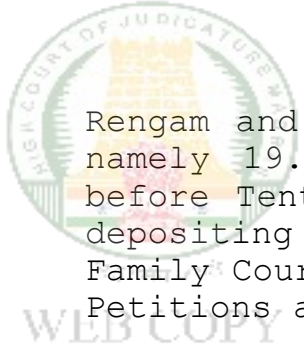
6. The learned counsel for Mohanakannan submitted that the order of the Family Court, Tirunelveli, is excessive, inasmuch as Mohanakannan has no means to make the payment, since he is simply working as a daily wage earner. However, it is the case of Sri Rengam that Mohanakannan is not a daily wage earner and he is the owner of a Match Factory.

7. It is seen that Sri Rengam had filed H.M.O.P.No.59 of 2010 before the Sub Court, Kovilpatti for restitution of conjugal rights. In the said case, she had filed an Interlocutory Application in I.A.No.90 of 2010 seeking interim maintenance. In that proceedings, Mohanakannan has admitted that he is running a Match Factory, by which, he is earning Rs.10,000/- per month. In the cross-examination before the Family Court, Tirunelveli, he was confronted with this and he accepted that he is running a Match Factory. That apart, Sri Rengam has marked Ex.P.3, which is a settlement deed dated 17.07.2012 executed by Mohanakannan settling certain properties in favour of his father Sekar and Mother Radha Rukmani. This unmistakably shows that Mohanakannan cannot be a daily wage earner as asserted by him.

8. That apart, in the cross-examination, he accepted that he is an income tax assessee and he is also paying income tax. He has also stated that he has an auditor, through whom, he files the tax returns. However, he did not mark any of those documents. Thus, Mohanakannan has failed to discharge the burden under Section 106 of the Indian Evidence Act to show how much his income is, whereas, he has taken a specious stance that he is a daily wage coolie earning Rs.4,000/- per month. That apart, he has neglected to maintain his wife, on account of which, she was forced to file a petition for restitution of conjugal rights. Hence, this Court does not find any infirmity in the findings arrived at by the Family Court, Tirunelveli that Mohanakannan had neglected to maintain Sri Rengam and Minor Vigneshkumar.

9. As regards the quantum of maintenance, this Court is of the view that, interest of justice will be served, if the same is reduced from Rs.20,000/- per month to Rs.15,000/- per month.

10. In the result, this Criminal Revision Case is partly allowed and the order dated 07.11.2016 in M.C.No.38 of 2016 passed by the Family Court, Tirunelveli, is modified to the extent that Mohanakannan shall pay Rs.7,500/- [Rupees Seven Thousand and Five Hundred only] per month each (totally Rs.15,000/- per month) to Sri



Rengam and Minor Vigneshkumar from the date of filing of petition, namely 19.07.2016 and that the said amount shall be paid on or before Tenth of every English Calendar Month either directly or by depositing the amount to the credit of M.C.No.38 of 2016 before the Family Court, Tirunelveli. Consequently, the connected Miscellaneous Petitions are closed.

Sd/
Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To
The Family Judge,
Tirunelveli.

+1cc to Mr.S.SIVA ILAYARAJA, Advocate, SR.No.56044
+1cc to Mr.V.RAJIV RUFUS, Advocate, SR.No. 56058

Cr1.R.C. (MD) No.109 of 2017
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