



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Cr1.R.C. (MD) No. 491 of 2017

and

Cr1.M.P. (MD) No. 5425 of 2017

S.Syed Shahul Hameed : Petitioner / Respondent

-Vs.-

1.S.Sulthan Rishwana Banu

2.Minor.S.Haatim Saeed

: Respondents / Petitioners

(2nd respondent is represented
through the first respondent.)

Prayer: Criminal Revision Case is filed under Section 397 Cr.P.C., to call for the entire records pertaining to the order passed by the learned Family Court Judge, Madurai in M.C.No.52 of 2013 vide her order dated 31.05.2017 and set aside the same.

For Petitioner : Mr.R.Anand

For Respondents : Mr.J.Sulthan Basha
for M/s.Ajmal Associates

O R D E R

Sulthan Rishwana Banu [herein after would be referred to as "Banu"] got married to Syed Shahul Hameed [herein after would be referred to as "Hameed"] on 12.07.2009 and they have one minor son namely, Haatim Saeed. Their marriage ran into rough weather resulting in the couple getting estranged.

2. Banu initiated proceedings before the Family Court, Madurai, in M.C.No.52 of 2013 under Section 125 Cr.P.C., claiming maintenance for herself and minor son. On behalf of Banu, she examined herself as P.W.1 and marked Ex.P1 to Ex.P5. On behalf Hameed, he examined himself as R.W.1 and Sheik Faruk was examined as R.W.2 and marked Ex.R1 and Ex.R2.

3. After considering the evidence on record, the Family Court, Madurai, by order dated 31.05.2017 in M.C.No.52 of 2013 has



awarded maintenance of Rs.10,000/- to Banu and Rs.5,000/- to her son, in total, Rs.15,000/- from the date of filing of the application, i.e., 12.06.2013. Challenging the said order, Hameed is before this Court.

4. Heard Mr.R.Anand, learned counsel appearing for Hameed and Mr.J.Sulthan Basha, learned counsel appearing for Banu.

5. Mr.R.Anand, learned counsel appearing for Hameed submitted that the Family Court, Madurai, had failed to take into consideration that Banu had initiated a criminal prosecution against the family members of Hameed and the case is still pending. He also submitted that Banu initiated prosecution under the Domestic Violence Act and the District Social welfare Officer, Madurai, has given a report dated 09.04.2014, to effect that Banu was not subjected to domestic violence. He also submitted that Banu is working as a lecturer in a private college.

6. Per contra, Mr.J.Sulthan Basha, learned counsel appearing for Banu refuted the submission.

7. This Court gave its anxious consideration to the rival submissions.

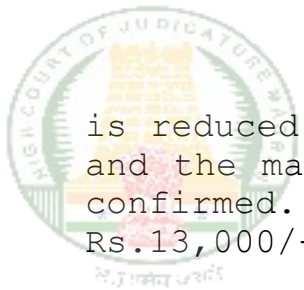
8. The factum of marriage and the birth of the child is not in dispute. It is also seen that Hameed has filed a complaint against Banu, for which, a case in Crime No.21 of 2016 has been registered on 13.10.2016 under Sections 465, 467, 468, 471 and 120-B IPC against Banu and her family members for allegedly getting more grant from the Government under the Marriage Scheme.

9. From a conspectus of the facts obtained in this case, this Court finds that there is no infirmity in the finding of the Family Court, Madurai, that Hameem has neglected to maintain his wife and child. Therefore, Banu and her child will be entitled to maintenance under Section 125 Cr.P.C..

10. On a reading of the order passed by the Family Court, Madurai, no reasons have been given for granting maintenance from the date of petition.

11. The Supreme Court in **Jaiminiben Hirenghai and another vs. Hirenghai Rameshchandra Vyas and another** reported in **2015 (1) R.C.R. (Cri) 84**, has held that reason should be given for awarding maintenance from the date of petition as well as for awarding maintenance from the date of order. That apart, admittedly, Banu is working as a lecturer in a college.

<https://hcservices.ecourts.gov.in/hcservices/> 12. Taking all these facts, this Court is of the view that it will be the interest of justice, if the quantum of maintenance



is reduced from Rs.10,000/- to Rs.8,000/- in respect of Banu alone and the maintenance amount of Rs.5,000/- in respect of her son is confirmed. Thus, total amount of maintenance is fixed at Rs.13,000/- [Rs.8,000/- for Banu and Rs.5,000/- for her son].

13. Towards the arrears of maintenance from the date of petition namely, 12.06.2013 to the date of order namely, 31.05.2017, Hameed should pay a consolidated amount of Rs.3,00,000/- [Rupees Three Lakhs only] to Banu within a period of three months from the date of receipt of a copy of this order. That apart, Hameed shall pay Rs.13,000/- [Rupees Thirteen Thousand only] per month from 31.05.2017 [date of order of the Family Court] before 10th of every English calender month to Banu and her minor child.

14. It is always open to the parties to amicably arrive at settlement and on such settlement being arrived, they may file a proper application under Section 127 Cr.P.C., before the Family Court, Madurai, for the purpose of annulling the order passed by this Court in this Criminal Revision Case.

15. In the result, this Criminal Revision Case is partly allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

The Family Court Judge,
Madurai.

+ 1 cc TO Mr.R.Anand , Advocate in SR No. 57227
+ 1 cc TO M/S.Ajmal Associates , Advocate in SR No. 57577

sm
AE/SKN RSK/SAR3/11.04.2018/3P/4C

Order made in
Cr1.R.C.(MD)No.491 of 2017
Dated:**22.03.2018**