



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.RC (MD) Nos.670 & 781 of 2017
and
CRL.MP (MD) No.9397 of 2017

CRL.RC (MD) No.670 of 2017

1.S.Bharathi
2.Minor A.Rakshitha
3.Minor A.Samyuktha ... Petitioners / Petitioners
(Minor petitioners 2 & 3
are represented through their
mother and guardian / 1st petitioner)
vs.

R.Ayothiraman ... Respondent / Respondent

PRAYER: Petition filed under Section 397 r/w 401 of the Criminal Procedure Code praying to set aside the order dated 30.06.2017 made in M.C.No.5 of 2015 on the file of the Family Court, Madurai only with regard to the direction given to the respondent to pay the maintenance to the 1st petitioner for a period of six months from the date of order and further enhance the maintenance payable by the respondent to the petitioners 1 to 3.

For Petitioners : Ms.M.D.Devi Saravana Priya
for Mr.K.Periasamy
For Respondent : Mr.C.Jeganathan
for M/s. Veera Associates

CRL.RC (MD) No.781 of 2017

R.Ayothiraman ... Petitioner / Respondent

vs.

1.S.Bharathi
2.Minor A.Rakshitha
3.Minor A.Samyuktha ... Respondents / Petitioners
(Minor respondents 2 & 3
are represented through their
mother and guardian / 1st respondent)

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PRAYER: Petition filed under Section 397 r/w 401 of the Criminal Procedure Code praying to set aside the judgment dated 30.06.2017



made in M.C.No.5 of 2015 on the file of the learned Family Court, Madurai and allow the criminal revision petition.

For Petitioner : Mr.C.Jeganathan
for M/s. Veera Associates
For Respondents : Ms.M.D.Devi Saravana Priya
for Mr.K.Periasamy

COMMON ORDER

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

2. S.Bharathi got married to R.Ayothiraman on 25.10.2006 and they have two daughters, by name, A.Rakshitha and A.Samyuktha, through the wedlock. Their matrimonial life ran into rough weather, resulting in the spouses getting estranged.

3. Bharathi, for herself and for her two children, initiated proceedings under Section 125 of the Code of Criminal Procedure, before the Family Court, Madurai, against Ayothiraman, claiming maintenance of Rs.15,000/- per month for herself and Rs.25,000/- per month for each child.

4. Ayothiraman entered appearance and contested the case. On behalf of Bharathi, she examined herself as PW1 and marked 9 Exhibits. Ayothiraman examined himself as RW1 and marked 10 Exhibits.

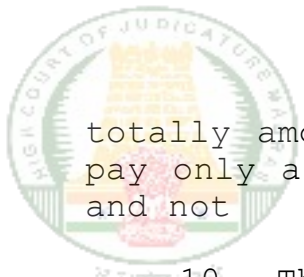
5. After considering the evidence adduced by both parties, the Family Court, by a well considered and detailed order in M.C.No.5 of 2015 dated 30.06.2017, has directed Ayothiraman to pay a sum of Rs.15,000/- per month for each child (Totally Rs.30,000/-), from the date of petition and awarded maintenance of Rs.15,000/- per month to Bharathi, only for a period of six months from the date of order.

6. Challenging the order, Ayothiraman has filed Crl.RC(MD) No.781 of 2017. Similarly, not satisfied with the quantum of maintenance awarded, Bharathi has filed Crl.RC(MD)No.670 of 2017.

7. Heard the learned Counsel appearing for both sides.

8. The learned counsel appearing for Bharathi vehemently submitted that the Family Court had failed to appreciate the fact that Bharathi is without employment and that the Family Court should have awarded maintenance for Bharathi also, on par with the children.

9. Per contra, the learned counsel appearing for Ayothiraman submitted that the average take home salary of Ayothiraman is Rs.1,15,608/- and that he has to pay a home loan of Rs.57,152/- per month; take care of his mother; pay rent and maintenance for his stay at New Delhi; food expenses for himself at New Delhi etc.,



totally amounting to Rs.1,02,152/- and therefore, he can afford to pay only a sum of Rs.15,000/- as maintenance to both the daughters and not Rs.30,000/- as ordered by the Family Court.

10. This Court gave its anxious consideration to the rival submissions made by both the parties.

11. Admittedly, the take home salary of Ayothiraman is Rs.1,15,608/-. Bharathi is a Bachelor of Engineering (B.E.,) Graduate and before marriage, she was gainfully employed in Bangalore. After marriage, she gave up the employment and became housewife.

12. Admittedly, the marriage had taken place on 25.10.2006 and now, we are in the year 2018. Therefore, one cannot expect Bharathi to seek employment at this age and maintain herself and the children.

13. However, this Court is of the view that the Family Court ought not to have awarded maintenance to Bharathi only for a period of six months, as rightly contended by Ms.M.D.Devi Saravana Priya, learned Counsel for Bharathi. Therefore, this Court is of the view that the order passed by the Family Court requires to be modified.

14. In the result, the order dated 30.06.2017, in M.C.No.5 of 2017, passed by the Family Court, Madurai, is modified as follows:-

- The monthly maintenance for each child is fixed at the rate of Rs.10,000/- (Totally Rs.20,000/-), payable from the date of filing of the petition in M.C.No.5 of 2015.
- Ayothiraman shall pay maintenance of Rs.5,000/- per month to Bharathi from the date of order in M.C.No.5 of 2015, i.e., from 30.06.2017.
- Thus, a total sum of Rs.25,000/- shall be paid, apart from the arrears, as monthly maintenance.

15. With the above modification in the quantum, both the Criminal Revision Cases are closed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub-Assistant Registrar

To

The Judge, Family Court, Madurai.

+2 ccs to Mr.PT.S.Narendravasan, Advocate, SR.Nos.41803 and 41802

+One cc to M/s.Veera Associates, Advocate, SR.No.41881

nb/gk

RL/5C/3P/KK/SAR1/23/1/2018

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