



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
Cr1.O.P. (MD) .No.362 of 2016

Manoharan ..Petitioner/Petitioner/Respondent

Vs.

1.Subha

2.Minor Nila

(Minor respondent represented
through her mother and
next friend respondent 1
herein)

...Respondents/Respondents/Petitioners

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to set aside the order in Cr1.R.C.No.76 of 2013, dated 24.02.2015 on the file of the learned VI Additional District and Sessions Judge, Madurai confirmed the order in M.C.No.23 of 2012 dated 11.11.2013 on the file of the learned Chief Judicial Magistrate, Madurai.

For Petitioner :Mr.P.Ganapathi Subramanian

For R-1

:Mr.K.Gokul

O R D E R

This petition has been filed challenging the order of maintenance passed by the learned Chief Judicial Magistrate, Madurai and which was confirmed in Revision by VI Additional District and Sessions Court, Madurai.

2.Heard learned counsel for the petitioner and learned counsel for the first respondent.

3.The petitioner is the husband. The wife filed a petition for maintenance under Section 125 of Cr.P.C., seeking maintenance for herself and on behalf of the minor daughter.

4.The learned Judicial Magistrate, Madurai, by an order dated 11.11.2013, fixed the maintenance at Rs.5,000/- per month to the wife and at Rs.7,500/- per month to the minor daughter and in all the petitioner was directed to pay a sum of Rs.12,500/- per month.

5.The learned Chief Judicial Magistrate took into consideration the financial status of the petitioner. However, no evidence was let in before the Court below to prove the salary earned by the petitioner.



6.The petitioner had filed a Criminal Revision against the said order before the appellate Court and the appellate Court confirmed the order of the learned Chief Judicial Magistrate. The learned appellate Court has also allowed the revision petition filed by the wife and directed the petitioner to pay the maintenance amount from the date of filing of the petition.

7.The learned counsel for the petitioner would submit that the petitioner is unemployed and is already taking care of one son and the wife is taking care of one daughter.

8.The learned counsel for the respondent would submit that the petitioner is working in U.S.A. and earning sufficiently. Therefore, the amount fixed by the Court below is just and proper.

9.This Court has carefully considered the submission made on either side and also perused the records placed before the Court.

10.This Court is not able to find on what basis the learned Magistrate had fixed the maintenance amount to the tune of Rs.12,500/- per month. The Magistrate has not even discussed about the financial status. The fact remains that the respondent/wife is dependent on the petitioner and she has a daughter to take care. Therefore, the petitioner has to necessarily pay maintenance to the wife and his minor daughter. Taking into consideration, the facts and circumstances of the case, the order of the learned Chief Judicial Magistrate is modified to the extent that the petitioner shall pay a sum of Rs.5,000/- per month to each of the respondent from the date of filing of the petition.

11.Accordingly, the Criminal Original Petition is disposed of by setting aside the order in CrI.R.C.No.76 of 2013, dated 24.02.2015 on the file of the learned VI Additional District and Sessions Judge, Madurai confirming the order made in M.C.No.23 of 2012 dated 11.11.2013 on the file of the learned Chief Judicial Magistrate, Madurai by modifying the maintenance amount to Rs.5,000/- per month to each of the respondents (Totally Rs.10,000/- per month) from the date of filing of the petition.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)



1.The Chief Judicial Magistrate,
Madurai

2.The VI Additional District and Sessions Judge,
Madurai.

3.The Section Officer, (2 COPIES)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

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NM/SV/SAR 3/08.10.18/3P/5C