



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2018

CORAM

WEB COPY

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

CrI.R.C.(MD)No.625 of 2018

&

CrI.M.P.(MD)No.9574 of 2018

Muthukumar, S/o.Shanmugasundaram

.. Petitioner/Respondent

vs.

1. Kasthuri @ Prema, W/o.Muthukumar

2. Minor.Monicka Devi, D/o.Muthukumar

Rep. by her natural Guardian/Mother/
the first respondent

.. Respondents/Petitioners

Criminal Revision Petition filed under Sections 397 r/w.401 of the Criminal Procedure Code, to call for the records relating to the order made in M.C.No.45 of 2016 on the file of the Family Court, Srivilliputhur, dated 12.12.2017 and set aside the same as illegal.

For Petitioner : Mr.A.Balaji

For Respondents : Mr.N.S.Karthikeyan

ORDER

This Criminal Revision has been filed to set aside the order dated 12.12.2017, made in M.C.No.45 of 2016, on the file of the Family Court, Srivilliputhur.

2.The respondents herein filed M.C.No.45 of 2016 against the revision petitioner under Section 125 of Cr.P.C., before the Family Court, Srivilliputhur, for maintenance.

3.According to the revision petitioner, after the marriage, the first respondent has changed her activities and left the matrimonial home without any reason. The revision petitioner is not employed in abroad and he is struggling for his livelihood and not in a position to pay maintenance and the first respondent is working in Meenakshi Mission Hospital and earning a sum of Rs.9,500/- per month and the same is sufficient to maintain herself and therefore, she is not entitled to claim any maintenance from the revision petitioner. In this case, the first respondent/wife is an earning member and said fact has not been considered by the learned Judge, Family Court, Srivilliputhur. Aggrieved by the said order, the petitioner has filed the present revision.



4. Heard the learned counsel appearing for the parties and perused the materials on record.

5. Admittedly, there is no dispute with reference to the relationship between the revision petitioner and the first respondent and the only dispute is that she is an earning member. Therefore, Section 125 Cr.P.C. will not attract for the first respondent. However, it is not in dispute about the paternity of the second respondent. As a dutiful father, he is liable to maintain his minor child. Since the first respondent is an earning member and working in Meenakshi Mission Hospital, she is not entitled to claim maintenance under Section 125 Cr.P.C., against the other partner. Therefore, this Court finds that the order passed by the learned Judge, Family Court, Srivilliputhur, regarding maintenance awarded to the first respondent/wife is erroneous and the same is liable to be set aside. Accordingly, the order passed by the learned Judge, Family Court, Srivilliputhur, with reference to the maintenance awarded to the first respondent/wife alone is set aside. However, the order passed for maintenance of the second respondent/minor child holds good. The revision petitioner is directed to pay arrears of maintenance amount for the second respondent, within one month from the date of receipt of a copy of this order, failing which, the first respondent is directed to take effective steps to execute the order passed by the learned Judge, Family Court, Srivilliputhur, in accordance with law.

6. In the result, the Criminal Revision Petition is partly allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The Judge,
Family Court,
Srivilliputhur,
Virudhunagar District.

+ 2 CC TO Mr.A.BALAJI, ADVOCATE IN SR No. 96168 & 96619

+ 1 CC TO Mr.N.S.KARTHIKEYAN, ADVOCATE IN SR No. 96465

SMN2

TE/BK/SAR-1 : 13/12/2018 : 2P/5C

Cr1.R.C. (MD) No.625 of 2018
20.11.2018