



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2018

CORAM:

THE HONOURABLE DR.JUSTICE G. JAYACHANDRAN

Cr1.R.C(MD)No.601 of 2018

and

Cr1.M.P. (MD) .No.9080 of 2018

V.P.Balaji

.. Revision Petitioner / Respondent

Vs.

1.R.B.Subhashini

2.Minor Vajra

.. Respondents / Petitioners

(Minor 2nd respondent is
represented by the natural
guardian mother/1st Respondent)

PRAYER: Criminal Revision Case is filed under Section 397 read with Section 401 of the Code of Criminal Procedure, against the order dated 18.09.2018 made in M.C.No.35 of 2015 on the file of the Family Court, Dindigul and thereby to dismiss the petition in M.C.No.35 of 2015.

For Petitioner : Mr.R.S.Sivaram

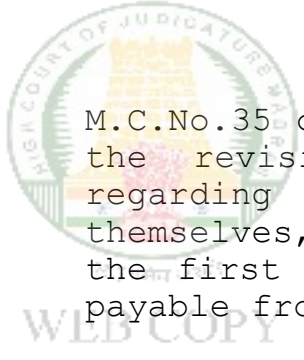
ORDER

This revision petition is directed against the order passed by the Family Court, Dindigul in M.C.No.35 of 2015 by the revision petitioner/husband.

2. The first respondent/wife had filed the above said application seeking maintenance of Rs.20,000/- per month from the revision petitioner for herself and the minor child, who is the second respondent herein for which the learned Judge, Family Court, Dindigul has ordered Rs.10,000/- to the first respondent/wife and Rs.5,000/- to the minor child as monthly maintenance, payable from the date of filing the petition, i.e., 02.12.2015.

3. Heard the learned counsel for the revision petitioner and perused the materials available on record.

4. It is averred in the petition that the revision petitioner married the first respondent on 07.11.2013. On 12.01.2014, the second respondent was born to them. During the time of 'valaikappu' ceremony there was a demand of additional dowry and harassment leading to desertion. The first respondent has filed applications under the Domestic Violence Act as well as under Section 125 Cr.P.C. In the application filed under Section 125 Cr.P.C. which was taken on file by the Family Court, Dindigul as



M.C.No.35 of 2015, the Court below has considered the contention of the revision petitioner/husband and the first respondent/wife regarding their earning capacity and inability to maintain themselves, has fixed the maintenance at Rs.10,000/- per month to the first respondent and Rs.5,000/- per month to the minor child payable from the date of filing the petition, i.e., 02.12.2015.

5. The learned counsel for the revision petitioner would submit that the first respondent herein, in the petition filed under the Domestic Violence Act seeking financial assistance and compensation, has sought only Rs.5,000/- and Rs.3,000/- respectively, for herself and the minor child, whereas in the maintenance case filed under Section 125 Cr.P.C. has sought for Rs.20,000/- per month for themselves. The Court below, though there was no evidence to show the earning of income of the revision petitioner, has notionally fixed the revision petitioner's income at Rs.30,000/- per month and awarded Rs.15,000/-, which is 50% of his income, as maintenance to his wife and child, relying upon the salary certificate by his new employer, which indicates that the compensation allowance to him is around Rs.21,500/-.

6. The learned counsel for the revision petitioner would further submit that the maintenance fixed by the Court below is excessive, more so, when the first respondent has deserted the revision petitioner on her own. The learned counsel would also submit that the matrimonial relationship had already been suffered from a decree of divorce before the Court below. In the said circumstances, the quantum of monthly maintenance fixed at the rate of Rs.10,000/- and Rs.5,000/- for the first and second respondents respectively is highly excessive.

7. After going through the evidence let in by the parties as well as the findings of the Court below and the reason given by the Court below, this Court could not find any point to appreciate the submissions made by the learned counsel for the revision petitioner. Hence, the revision petition challenging the quantum of maintenance fixed at the rate of Rs.10,000/- and Rs.5,000/- for respondents 1 & 2 respectively, need no interference.

8. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is dismissed. If there is any change of circumstances, it is always open to the revision petitioner to seek modification before the Court below.

Sd/-

Assistant Registrar()

/True Copy/

Sub Assistant Registrar(CS-II)



To
The Judge,
Family Court,
Dindigul.

WEB COPY

Copy to:
The Section Officer, (2 Copies)
Records, Criminal Section,
Maduri Bench of Madras HighCourt,

PJL

KM/BK/SAR2/21.12.2018/3P/4C

ORDER MADE IN
Cr1.R.C (MD) No. 601 of 2018
01.11.2018