



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2018

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WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.(MD).No.526 of 2018

1. Tmt. G.Dhanalakshmi
2. Ajaykumar

... Petitioners/ Petitioners/ Petitioners
Vs.

T.Selvakumar ... Respondent/ Respondent/ Respondent

Prayer: The Criminal Revision Petition is filed under Sections 397 and 401 of Cr.P.C., against the order dated 28.02.2018 passed by the learned Judicial Magistrate, Melur in Cr.M.P.No.4575 of 2017 in M.C.No.5 of 2017.

For Petitioners : Mr.K.Muthumalai

O R D E R

This Criminal Revision Petition is directed against the order passed by the learned Judicial Magistrate, Melur in Cr.M.P.No.4575 of 2017 in M.C.No.5 of 2017, dated 28.02.2018.

2. Heard the learned counsel for the revision petitioners. They are mother and son. The respondent herein is the husband of the first petitioner and father of the second petitioner. The first petitioner and the respondent got separated in the year 2016. Consequently, husband has preferred H.M.O.P.No.63 of 2017 before the Court at Melur, Madurai, whereas the wife has sought for restitution of conjugal rights in H.M.O.P.No.399 of 2016 on the file of Sub Court, Melur. While so, seeking maintenance, the revision petitioners herein have preferred M.C.No.5 of 2017, alleging that the respondent is earning around Rs.22,00,000/- per annum as Delivery Manager (IS-IT) in Renault Nissan Technology & Business Centre India Private Limited, but not maintaining the wife and son and hence, sought for Rs.50,000/- as maintenance for each of the petitioners and in the said M.C.No.5 of 2017, they also filed Crl.M.P.No.4575 of 2017, seeking interim maintenance of Rs.25,000/- for each of the petitioners. In the said main application for maintenance, the respondent herein though engaged a counsel to represent him had not filed any counter. The Court below after considering the salary certificate of the respondent and considering the other factors, had fixed Rs.5,000/- as maintenance to the first petitioner and Rs.10,000/- as maintenance to the second petitioner minor boy. Aggrieved by that, the present criminal revision petition is filed seeking enhancement of maintenance.



3. On an earlier occasion, in Cr.M.P.(MD).No.6379 of 2018 petition filed to condone delay in filing the revision case the respondent has received the notice and appeared through counsel. This Court requested the counsel to file his vakalat. But thereafter, when the matter was taken up for hearing, the counsel neither appeared nor filed his vakalat. Hence, condone delay petition was allowed. Thereafter, notice was ordered in Crl.R.C.(MD).No.526 of 2018. The respondent herein has refused to claim the notice. Hence, notice returned as 'unclaimed'.

4. The learned counsel appearing for the revision petitioners would point out the following facts:

The divorce petition in H.M.O.P.No.63 of 2017 filed by the respondent was dismissed for default on 02.03.2018 and the restitution of conjugal rights application filed by the wife in H.M.O.P.No.399 of 2016 was allowed on 24.04.2018. The respondent herein remained himself absent. The second revision petitioner Ajaykumar has attained majority during the month of May 2018.

5. It is submitted by the learned counsel for the revision petitioners that though the revision petitioners have proved the income of the respondent is nearly Rs.22,00,000/- per annum, as per the appointment order issued by Renault Nissan Technology & Business Centre India Private Limited to the respondent and the same not been disputed by the respondent, the quantum of maintenance fixed by the trial Court should have been proportionate to the respondent standard of living. Contrarily, the trial Court has fixed a very low amount of Rs.5,000/- to the wife and Rs.10,000/- to the son, who is pursuing his education.

6. This Court finds due merit and force in the said submission. When positive evidence is let in by the petitioners indicating the income of the respondent and the same has not been disputed, without doubting the veracity of the document, a reasonable amount should have been fixed by the trial Court for a person, who is making income around Rs.22,00,000/- per annum. His wife and son cannot have proportionate standard of living with Rs.5,000/- and Rs.10,000/- respectively. At least 20% of his gross income or 1/3rd of his net income should have been earmarked for the wife and son. In the said circumstances, since the respondent despite due notice has neither appeared in this revision petition nor in any of the proceedings including the divorce proceedings which was initiated by him clearly indicates that he does not care for his family as well as the respect for the Court.

7. In the said circumstances, this Court is of the opinion that in view of the salary certificate produced by the revision petitioners before the trial Court, this Court enhanced the maintenance to the first petitioner from Rs.5,000/- to Rs.20,000/- and to the second petitioner from Rs.10,000/- to Rs.20,000/-. The petitioners are entitled to get the enhanced maintenance amount from

the date of filing of the interim maintenance application.

8. The second revision petitioner is entitled to get the maintenance amount till the date of his majority. The Court below shall ensure that the respondent pay the arrears of maintenance and the future maintenance in time. In case of any default, appropriate action should be taken on petition for recovery of the same. Accordingly, the Criminal Revision Petition is disposed of.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-III)

To

The Judicial Magistrate,
Melur.

- 1 CC TO Mr.K.MUTHUMALAI , ADVOCATE IN SR No.90303.
- AKV
- DS SKN SAR3 20 11 2018 3P 3C

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