



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C. (MD) No.573 of 2018

1.Devi Meenakshi

2.R.Kaviya

3.Minor.R.Ram Prasath

(Minor, third petitioner is
represented by his mother
and next guardian the first
petitioner herein)

... Petitioners

vs.

P.Rajasekaran

... Respondent

PRAYER:- Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order dated 11.08.2018 made in Crl.M.P.No.605 of 2018 in M.C.No.1 of 2015 on the file of Additional Chief Judicial Magistrate, Madurai and to set aside the same and consequently enhance the maintenance amount from Rs.5,000/- each to the petitioners to a sum of Rs.7,000/- each to the petitioners per month.

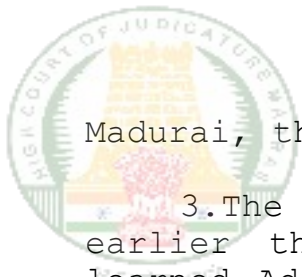
For Petitioners : Mr.G.Lawrance

For Respondent : M/S.K.Abiya

ORDER

This criminal revision case has been filed to set aside the order dated 11.08.2018 in Crl.M.P.No.605 of 2018 in M.C.No.1 of 2015 on the file of the learned Additional Chief Judicial Magistrate, Madurai, and consequently enhance the maintenance amount from Rs.5,000/- to a sum of Rs.7,000/- each to the petitioners per month.

2.After hearing the arguments, perused the records, considering the cost of living and also the petition for enhancement of maintenance to the petitioners from Rs.6,000/- to Rs.21,000/-, the learned Additional Chief Judicial Magistrate, Madurai by its order dated 11.08.2018, enhanced the maintenance amount to the petitioners from Rs.2,000/ each to Rs.5,000/- each. Challenging the order passed by the learned Additional Chief Judicial Magistrate,



Madurai, the the present revision case has been filed.

3.The learned counsel for the petitioners would submit that earlier the petitioners had filed M.C.No.1 of 2015 before the learned Additional Chief Judicial Magistrate, Madurai and by order dated 17.03.2015, the respondent was directed to pay maintenance allowance to the petitioners for a sum of Rs.2,000/- each. Since the second petitioner was studying B.Com, in a private college at Madurai and the third petitioner was studying sixth standard in a matriculation school, the petitioners filed CrI.M.P.No.605 of 2018 in M.C.No.1 of 2015, seeking for enhancement of maintenance to the petitioners from Rs.6,000/- to Rs.21,000/- per month. The respondent is earning a sum of Rs.58,120/-. The learned Magistrate failed to consider the earning capacity of the respondent and only awarded a sum of Rs.5,000/- each, which warrants interference of this Court.

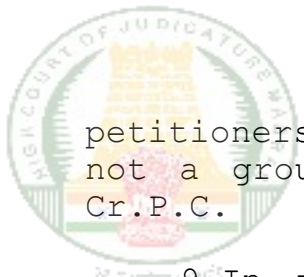
4.The learned counsel for the respondent would submit that though the respondent is earning a sum of Rs.58,120/- as per his salary certificate, Ex.P4, except his actual deduction of Rs.39,000/- the petitioner is receiving only a sum of Rs.19,120/-. He has already paid the maintenance amount of Rs.2,000/- as per the order dated 17.03.2015, to the petitioners every month. The respondent has filed a revision before the Sessions Court, Madurai, and got a stay and suppressed by filing of revision before the Sessions Court. Therefore, the revision petition is liable to be dismissed.

5.Heard the learned counsel on either side and perused the materials available on record.

6.There is no dispute in relationship between the petitioners and the respondent. Admittedly, the first petitioner is the wife of the respondent and second petitioner is the daughter of the respondent and the third petitioner is the son of the respondent and the petitioners and the respondent were living separately. The second petitioner was studying B.Com., C.A., in a private college, Madurai, and the third petitioner was studying sixth standard in a Matriculation School, Madurai.

7.Considering the fact that the children have been grown up and the second petitioner is going to undergo higher education and considering that fact that the cost of living and also the other factors, the learned Magistrate, enhanced the maintenance amount to the petitioners from Rs.2,000/- to Rs.5,000/- each totalling to Rs. 15,000/- to the petitioners.

8.Considering the facts and circumstances of the case and the scope of Section 127 Cr.P.C., there is no ground to interfere with the order passed by the learned Additional Chief Judicial Magistrate, Madurai dated 11.08.2018 and to enhance the amount from Rs.2,000/- to Rs.5,000/- each. Though the learned counsel for the



petitioners stated that the respondent obtained loan, the same is not a ground for disabling the petition filed under Section 127 Cr.P.C.

9. In view of the above, this criminal original petition is dismissed. However, the stay granted by the learned Sessions Judge, Madurai, is hereby quashed and the respondent is directed to pay a sum of Rs.5,000/- to the petitioners each from the date of filing the petition within a period of one month from the date of receipt of a copy of this order, failing which, the petitioners can take the legal action in accordance with law before the concerned Court.

Sd/-
Assistant Registrar(cs-I)

/True Copy/

Sub Assistant Registrar(cs-II)

To

1.The Additional Chief Judicial Magistrate,
Madurai

2.The Judge, Sessions Court,
Madurai

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.G.Lawrance Advocate in SR.No.95002

+1cc to Mr.K.Abiya Advocate in SR.No.94706

Cr1.R.C.(MD) No.573 of 2018
09.11.2018

MM

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