



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.10.2018
CORAM:
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C(MD)No.767 of 2016
and

Crl.M.P. (MD)Nos.10985 of 2016 and 10791 of 2017

R.Satheeshkumar : Petitioner/Respondent/
Respondent
Vs.

1.S.Rohini :Respondent/Appellant/Petitioner
2.Gandhimathi
3.Premalatha : Respondents/Respondents/Respondents

PRAYER: Revision is filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to allow this criminal revision petition as against the order made in C.A.No.53 of 2014 dated 22.01.2016 on the file of the First Additional District and Sessions Court, Thoothukudi.

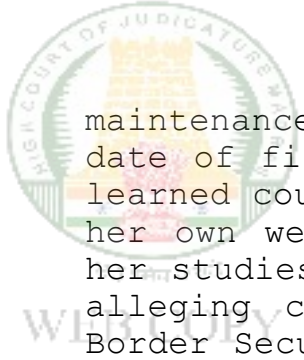
For Petitioner : Mr.V.S.Kishok Kumar
For R-1 : Mr.I.Robert Chadrakumar
For R-2 and R-3 : No appearance

ORDER

The revision petitioner is the husband of the first respondent in the complaint filed under the Domestic Violence Act for financial assistance and other protection.

2.The learned Judicial Magistrate No.II in M.C.No.22 of 2012 vide order dated 30.07.2014 has fixed Rs.4,000/- as monthly maintenance for the first respondent/wife and Rs.4,000/- for the daughter, payable from the date of order. Since the first respondent has sought Rs.12,000/- in toto as maintenance and aggrieved by the quantum of maintenance fixed by the trial Court, she has preferred the appeal before the First Additional District and Sessions Court, Thoothukudi. The first appellate Court while confirming the quantum of maintenance, has fixed the date of filling the petition as date of commencement of the payment of maintenance. Aggrieved by that, the present criminal revision case is preferred.

3.The prime contention of the learned counsel for the revision petitioner is that while the trial Court has given reason for fixing the date of order as commencement of payment of



maintenance, the lower appellate Court has reversed it fixing the date of filing petition as date of commencement. According to the learned counsel for the revision petitioner, the first respondent on her own went to Thoothukudi and stayed with her parents to pursue her studies. Thereafter, due to ill-advice has filed the complaint alleging cruelty. The revision petitioner being a Havildhar in Border Security Force, there is no question of deserting her on his own. It is the first respondent herein had deserted the petitioner's family and living with her parents. Therefore, the learned counsel contended that the payment of maintenance should commence from the date of order and not from the date of petition.

4. After considering the rival contentions made by the petitioner as well as the learned counsel for the first respondent, this Court finds that while the trial Court has given reason for fixing the date of order as commencement of payment of maintenance, the first appellate Court without assigning any reason, has dated it back to date of filing. Since there is valid reason for fixing the payment of maintenance from the date of order, this Court concurs with the view expressed by the trial Court and for absence of any reason to reverse the said finding, the first appellate Court order is bound to be set aside.

5. Accordingly, the Judgment dated 22.01.2016 passed in CrI.A.No.53 of 2014 by the First Additional District and Sessions Court, Thoothukudi is hereby set aside. The order dated 30.07.2014 passed in M.C.No.2 of 2012 on the file of the learned Judicial Magistrate No.II, Thoothukudi is confirmed.

6. The learned counsel appearing for the first respondent would submit that after preferring this criminal revision case, the revision petitioner has not paid the maintenance. As per the order passed by this Court, the petitioner has already deposited Rs.2,32,000/- in M.C.No.22 of 2012. Taking note of the said fact, the revision petitioner is hereby directed to pay the balance arrears of maintenance at the rate of Rs.8,000/- per month from 08.12.2016 on or before 30.11.2018. He shall continue to pay the maintenance every month on or before 5th day. The first respondent is permitted to withdraw Rs.2,32,000/- deposited in M.C.No.22 of 2012.

7. With the above said directions, this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(W)

/True Copy/



1.The First Additional District and Sessions Judge,
Thoothukudi

2.The Judicial Magistrate No.II,
Thoothukudi.

3.The Chief Judicial Magistrate, Tuticorin.

+1CC to Mr.V.S.Kishok Kumar, Advocate, SR.No.92610

+1CC to Mr.I.Robert Chadrakumar, Advocate, SR.No.92715

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Cr1.M.P. (MD)Nos.10985 of 2016 and
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