

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.310 of 2019

and

Crl.M.P.No.3684 of 2019

N.Jayachandran

.. Petitioner

Vs.

J.Gajalakshmi

.. Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to set aside the order dated 23.07.2018 made in M.P.No.975 of 2012 in M.C.No.117 of 2008 on the file of the IV Additional Judge, Family Court, Madras.

For Petitioner : Mr.C.Sivanesan

For Respondent : Ms.V.Anuradha

O R D E R

This Criminal Revision has been filed to set aside the order dated 23.07.2018 made in M.P.No.975 of 2012 in M.C.No.117 of 2008 on the file of the IV Additional Judge, Family Court, Madras.

2. The Revision petitioner is the husband, the respondent is the wife. She filed the petition in the year of 2008 for maintenance under Section 125 Cr.P.C in M.C.No.117 of 2008 before the Family Court, Chennai. The Family Court, Chennai, considered the fact that the revision petitioner/husband is the Government Employee, having sufficient means neglected to maintain his wife and the wife unable to maintain herself, awarded a sum of Rs.2,500/- towards monthly maintenance. In the year of 2012, the respondent/wife filed a petition under Section 127 Cr.P.C., in MP.No.975 of 2012 in M.C.No.117 of 2008 seeking enhancement of the maintenance. Considering the change of circumstances, raising the salary of the revision petitioner and also the implementation of subsequent pay commission, cost of living as on date prevailing, the learned IV Additional Principal Judge, Family Court, Chennai allowed the petition and enhanced the maintenance to Rs.4,000/- per month from 11.03.2010 and increased a sum of Rs.1,000/- per year and fixed to a sum of Rs.12,000/- from May 2018 and directed the revision petitioner/husband to pay the same with the accumulative arrears. Though the petition for enhancement has been filed only in the year 2012, the Family

Court increasing a sum of Rs.1,000/- every year from the year 2010. Against the said order, the husband preferred the present revision before this Court.

3. Heard the learned counsel for the petitioner, the learned counsel for the respondent and also perused the materials on record.

4. The learned counsel for the petitioner would submit that the petitioner married the respondent, who was widow, having three children. He would submit that the respondent/wife is able to maintain herself and also her three children, who were born through her first husband. After passing the order in MC.No.117 of 2008, the petitioner/husband has not filed any petition to cancel or modify the order passed by the learned Magistrate. However, the wife had filed a petition under Section 127 Cr.P.C., in MP.No.975 of 2012 in MC.No.117 of 2008 seeking enhancement of maintenance to Rs.15,000/- per month, whereas, the Family Court, Chennai gone beyond the relief sought for in the petition and awarded Rs.12,000/- and increased Rs.1,000/- per year, which warrants interference of this Court.

5. The relationship between the petitioner and the respondent as husband and wife is not in dispute and they are living separately. The petitioner is working in the Railway Department as Helper. Though he has not produced any salary slip, he will get minimum Rs.50,000/- per month as monthly salary, as per the 7th pay commission. Though the petitioner is having sufficient means, he neglected to maintain his wife/respondent herein. However, the respondent is unemployed and there is no evidence that the respondent is able to maintain herself.

6. Considering the change of circumstances, this Court is inclined to enhance the maintenance amount. However, the order passed by the Family Court, Chennai is modified to the effect that the revision petitioner/husband is directed to pay a sum of Rs.12,000/- per month towards monthly maintenance to the respondent/wife, from the date of the filing of the petition in MP.No.975 of 2012 in MC No.117 of 2008, till today and also for the future maintenance hereinafter.

7. With the above modification, this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/--

Assistant Registrar(CS viii)

//True Copy//

Sub Assistant Registrar

To
1.The IV Additional Judge,
Family Court,
Chennai.

+1cc to Mr. M.Baskaran, Advocate SR.No. 23276
+1cc to Mr.T,Surendran , Advocate SR.No. 22914

Cr1.R.C.No.310 of 2019

A.SK(03/05/2019)



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