

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.OP.No.29293 of 2015
and CRL.M.P.Nos.1 & 2 of 2015

Shanmugam

...Petitioner

Vs.

1. Parimaladevi

2. Minor Kavivarthini

....Respondents

rep. Natural guardian 1st Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order passed by the learned I Additional District Judge, Erode in Crl.R.P.No.6 of 2015 dated 20.08.2015 in-so-far as it pertains to enhancement of maintenance amount from Rs.2000 to Rs.4000 to the 2nd respondent herein and modified the order passed in M.C.No.11 of 2011 dated 05.02.2013 on the file of the District cum Judicial Magistrate, Perundurai.

For Petitioner : Mr.B.Nedunchezhiyan

For Respondents: No Appearance

ORDER

This petition has been filed challenging the order passed by the Court below enhancing the amount of maintenance payable by the petitioner from Rs.2,000/- to Rs.4,000/- per month.

2. The petitioner is the husband of the 1st respondent. The 1st respondent filed a petition under Section 125 of Cr.P.C. seeking for maintenance for herself and the minor daughter. The District Munsif cum Judicial Magistrate, Perundurai by an order dated 05.02.2013, directed the petitioner to pay a maintenance of Rs.2,000/- each to the 1st and the 2nd respondents. Aggrieved by the same, the petitioner filed a revision before the 1st Additional District Judge, Erode.

3. The 1st Additional District Judge, Erode after considering the entire facts and circumstances of the case, found that there is already a decree of divorce passed in HMOP

No.256 of 2008, dissolving the marriage between the petitioner and the 1st respondent and this petition was filed on the ground that the 1st respondent is living in adultery. Since the 1st respondent was found to be living in adultery, the revision Court set-aside the maintenance granted in favour of the 1st respondent, in view of Section 125(4) of Cr.P.C. The petitioner himself volunteered to pay maintenance to his daughter and the revision Court directed the petitioner to pay a maintenance amount of Rs.4,000/- per month to the 2nd respondent.

4. The learned counsel for the petitioner submitted that petitioner is not in a position to pay a maintenance of Rs.4,000/- per month since he does not have the financial wherewithal. The learned counsel further submitted that the revision Court ought not to have enhanced the maintenance in the revision petition filed by the petitioner.

5. There is no appearance for the respondents.

6. Considering the facts and circumstances of the case, this Court is inclined to modify the maintenance amount fixed by the revision Court insofar as the 2nd respondent is concerned and this Court fixes the maintenance amount payable to the 2nd respondent at the rate of Rs.3,000/- per month, from the date of filing of the petition. The order of the revision Court is modified to that extent.

7. This criminal original petition is partly allowed and there shall be a direction to the petitioner to pay the entire arrears of maintenance to the 2nd respondent at the rate of Rs.3,000/- per month from the date of filing of the petition in M.C.No.11 of 2011, within a period of eight weeks from the date of receipt of copy of this order. Payment shall be directly made in the name of the 2nd respondent. The arrears of maintenance shall be calculated up to July 2019. The petitioner shall continue to pay the monthly maintenance at the rate of Rs.3,000/- directly to the 2nd respondent from the month of August, 2019, on or before 15th of every month without fail. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The I Additional District Judge, Erode.

2.The District cum Judicial Magistrate, Perundurai.

+lcc to Mr.B.Nedunchezhiyan, Advocate sr.67878

CRL.OP.No.29293 of 2015
and CRL.M.P.Nos.1 & 2 of 2015

pm(co)
nr 14/08/2019



WEB COPY