

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.110 of 2019 and

Crl.M.P.No.1035 of 2019

K.Saravanan

...Petitioner/Respondent

-Vs-

1.Loganayagi @ Durga

2.S.Raj Vikram

(Minor represented by mother natural guardian

1st respondent)

...Respondent/Petitioner

This Criminal Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 22.05.2018 in M.C.No.542 of 2012 on the file of the learned V Additional Principal Judge, V Additional Family Court, Chennai.

For Petitioner : Mr.K.Selvakumaraswamy

For Respondent : Mr.L.Rajasekar

ORDER

The petitioner is husband, 1st respondent is wife and 2nd respondent is minor child. The first respondent has filed a maintenance case under Section 125 of Cr.P.C. seeking maintenance before the learned V Additional Family Court, Chennai, which was taken on file in M.C.No.542 of 2012. The learned Judge, after adverting to the materials placed on record and after hearing both the parties, by order dated 22.05.2018, awarded maintenance at Rs.10,000/- to the first respondent and Rs.5,000/- to the second respondent. Aggrieved against the order of maintenance, the husband is before this Court with the present criminal revision case.

3 The learned counsel for the petitioner would submit that the petitioner/husband at the time of filing of maintenance case, was earning Rs.40,000/-, but, he quit the job and joined in Law College at Thirupathy. Further the petitioner underwent surgery twice and he is now under the care and custody of his parents. The first respondent/wife is employed and earning more than Rs.20,000/-, which fact was admitted by her in cross examination. However, the petitioner is ready to pay maintenance to his child namely the second respondent.

4 The learned counsel for the respondents would submit that the respondent has to maintain her aged parents out of the income earning by her. The petitioner/husband has admitted that he is earning Rs.40,000/-, but, refused to maintain the first respondent. The learned Magistrate after considering all the materials and the submissions made on either side, had rightly awarded the maintenance, which does not warrant any interference.

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

6 The main contention raised by the petitioner is that he quit his job and studying in Law College at Thirupathy and also he fell on health ailments and he is now under the care and custody of his parents. It is seen that the petitioner did not produce any proof to show that he quit the job and studying in Law College. On the other hand, it is an admitted fact that at the time of deciding the maintenance case, the petitioner was earning Rs.40,000/-. The first respondent also admitted that she is an earning member. Petition under Section 125 of Cr.P.C. can be filed by the wife, only if the husband having sufficient means neglected or refused to maintain his wife, who is unable to maintain herself. In this case, the respondent/wife has admitted that she is earning through her employment. Under these circumstances, this Court is inclined to modify the maintenance granted by the Court below.

7 The maintenance of Rs.10,000/- granted to the first respondent/wife is hereby set aside and the maintenance amount of Rs.5,000/- awarded to the second respondent/child is hereby enhanced to Rs.10000/-, taking into consideration the cost of living and the educational expenses. The criminal revision case is party allowed with the above terms. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Insp.cell)

//True Copy//

Sub Assistant Registrar

cgi
To

The V Additional Principal Judge,
V Additional Family Court, Chennai.

+1 cc to Mr.L.Rajasekar, Advocate, Sr.No. 22321

CrI.R.C.No.110 of 2019 and

CrI.M.P.No.1035 of 2019

VGII(CO)
CSL/27.04.2019