

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1045 of 2018 and
Crl.M.P.No.12232 of 2018

1. K.B.Rajitha
2. K.B.Shashank ... Petitioners/Petitioners
(Minor represented by his mother 1st respondent)

-Vs-

K.M.Balaji ... Respondent/Respondent

This Criminal Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 23.08.2017 made in M.C.No.10 of 2014 on the file of the learned Judicial magistrate Court at Ambattur filed under Section 125 of Cr.P.C.

For Petitioner : Mr.R.Karunagaran

For Respondent : No Appearance

O R D E R

The first petitioner is wife, 2nd petitioner is minor child and the respondent is husband. The petitioners have filed a petition under section 125 Cr.P.C. seeking maintenance before the learned Judicial Magistrate, Ambattur, which was taken on file in M.C.No.10 of 2014. The learned Magistrate, after advertng to the materials placed on record and after hearing both the parties, by order dated 23.08.2017, awarded a sum of Rs.20,000/- to the first petitioner and Rs.10,000/- to the second petitioner/minor child as maintenance from the date of order. Aggrieved against the same, the petitioners are before this Court with the present criminal revision case.

2 The learned counsel for the petitioner would submit that the respondent/husband is working in Canada and earning handsome income. Even though the learned Magistrate has accepted the employment and income of the respondent/husband, had rightly awarded maintenance at Rs.30,000/-, but unfortunately it is only

from the date of order and not from the date of filing of the petition. The learned Magistrate did not give any reason for the same, which warrants interference of this Court.

3 According to the learned counsel for the respondent/husband, the learned Magistrate, after taking into consideration all the materials placed on record, had awarded the maintenance amount, which itself is on higher side. The learned Magistrate directed the respondent/husband to pay the above maintenance from the date of order. In view of the fact that the amount awarded by the Magistrate is on higher side, the order passed by the learned Magistrate, awarding maintenance from the date of order, does not call for any interference.

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

5 It is seen that the learned Magistrate has awarded maintenance at Rs.30,000/- from the date of order. The learned Magistrate has not assigned any reason for not granting maintenance from the date of filing of the maintenance case. This Court is of the view, when the Magistrate has accepted the plea of the petitioners that the respondent is working in Canada and earning handsome salary and the first petitioner has no means to maintain herself and the minor child, he ought to have awarded maintenance from the date of filing of the revision case. Hence this Court is inclined to modify the order. Accordingly, the order dated 23.08.2017 made in M.C.No.10 of 2014 is modified to the extent that the maintenance of Rs.30,000/- granted by the Court shall be paid from the date of filing of the maintenance case instead of from the date of order. The respondent/husband is directed to pay arrears of maintenance within a period of three months from the date of receipt of a copy of this order.

6 With the above direction, the criminal revision case is allowed. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To

The Judicial Magistrate, Ambattur.

+1 cc to Mr.R.Karunakaran, Advocate Sr.No.16192

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CSL/01.04.2019



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