

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN
Crl.R.C.No.1158 of 2012

G.Shanthi

.. Petitioner

Vs.

M.Boobathy

.. Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to restore the maintenance amount granted by the trial Court i.e, Rs.3,000/- in MC.No.36/2006 on the file of Chief Judicial Magistrate, Namakkal and direct the respondent to pay the arrears of maintenance.

For Petitioner : Mr.P.R.Balasubramanian

For respondent : Mr.P.S.Vijayakumar

O R D E R

This Criminal Revision Case has been filed to restore the maintenance amount granted by the trial Court i.e, Rs.3,000/- in MC.No.36/2006 on the file of the Chief Judicial Magistrate, Namakkal and direct the respondent to pay the arrears of maintenance.

2. The revision petitioner is the wife and the respondent is the husband. The petitioner/wife filed a Maintenance petition in M.C.No.36 of 2006 before the learned Chief Judicial Magistrate, Namakkal. After trial, the learned Chief Judicial Magistrate directed the respondent to pay a sum of Rs.3,000/- per month to the petitioner/wife towards maintenance from the date of filing of the Maintenance petition i.e., from 27.05.2009. Challenging the said order, the husband filed a revision petition in Criminal Revision Petition No.14/2009 before the learned Principal Sessions Judge, Namakkal. After hearing the arguments, the learned Sessions Judge allowed the revision and modified the award amount to Rs.1,000/- per month. There against, the wife has filed the present revision before this Court.

3. The learned counsel for the revision petitioner would submit that the respondent/husband was employed as a Cashier at Lakshmi Vilas Bank and he is having sufficient means to

maintain his wife. Despite having sufficient means, the respondent/husband neglected to maintain the revision petitioner/wife and hence, she filed a petition for maintenance. The learned Magistrate awarded a sum of Rs.3,000/- towards maintenance, whereas, the learned Sessions Judge modified the maintenance amount to Rs.1,000/-. The modification order passed by the learned Sessions Judge is against the principles of law, which warrants interference.

4. The learned counsel for the respondent would submit that after filing this revision, the matter was referred to Lok Adalat for several times but the parties not approached the Court for settling the matter. The learned Sessions Judge has rightly given the reason for modification of the order that the revision petitioner/wife received a sum of Rs.1,10,000/- on 09.10.2006 on her own accord, towards the claim of maintenance and the parties are living separately since from the year 1998. Therefore, the order passed by the learned Sessions Judge does not warrant interference.

5. Heard the learned counsel appearing for the revision petitioner and the learned counsel for the respondent and also perused the materials available on record.

6. The marriage between the petitioner and the respondent and the relationship of the parties are not in dispute. Both are living separately from the year 1998 is also not in dispute. Since the petitioner/wife unemployed and she has no means to take care of herself, she received a sum of Rs.1,00,000/- and the same was admitted by her during cross-examination. The learned Sessions Judge taking into consideration of the fact that the petitioner's father is having house and lands and the petitioner is also living separately from the year 1998 partly allowed the revision filed by the respondent/husband by reducing the maintenance to Rs.1,000/-.

7. Considering the facts and circumstances of the case and receiving a sum of Rs.1,00,000/- and also living separately with valid reason are not a bar for getting maintenance. The parents of the petitioner/wife is having sufficient means is also not a bar for getting maintenance. No doubt the proceedings under Section 125 Cr.P.C is a summary in nature. The condition precedent for awarding the maintenance is the wife is unable to maintain herself and the husband is having sufficient means. Despite having sufficient means, the respondent/husband neglected to maintain his wife. Admittedly, the respondent/husband was working as a Cashier at Lakshmi Vilas Bank and earning Rs.80,000/-. There is no material to show that the petitioner/wife is having sufficient means to maintain herself. In the circumstances, the reason stated by the learned Sessions Judge warrants interference.

8. Accordingly, this Criminal Revision Case is allowed. The order dated 08.12.2010 made in Criminal Revision Petition No.14 of 2009 passed by the learned Principal Sessions Judge, Namakkal, is set aside and the order dated 27.05.2009 made in MC.No.36 of 2006 passed by the learned Chief Judicial Magistrate, Namakkal is restored. The respondent/husband is directed to pay the entire arrears of maintenance amount from the date of the petition in MC.No.36 of 2006, less the amount already paid, if any, failing which, the petitioner/wife is at liberty to approach the learned Chief Judicial Magistrate, Namakkal and made recovery in accordance with law.

Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

KMI

To

1. The Principal District and Sessions Judge,
Namakkal.
2. The Chief Judicial Magistrate,
Namakkal.

+1cc to Mr.P.R.Balasubramanian , Advocate SR.No. 58903
+1cc to Dr.S.Vijaya kumar , Advocate SR.No. 58842

A.SK(06/09/2019)

Cr1.R.C.No.1158 of 2012

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