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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.555 of 2012 and
M.P.No.1 of 2012

Suresh Babu

...Petitioner/Respondent

Vs.

Jayalakshmi

... Respondent/Petitioner

The Criminal Revision case filed under Section 397 read with 401 of Code of Criminal Procedure seeking to call for the records in M.C.No.45 of 2009 on the file of the learned Chief Judicial Magistrate, Vellore and to set aside the order dated 28.03.2012.

For Petitioner : Mr.V.Bhiman

For Respondent : Mr.R.Balakrishnan

ORDER

This criminal revision case has been filed against the order of enhancement of maintenance dated 28.03.2012 made in M.C.No.45 of 2009 by the learned Chief Judicial Magistrate, Vellore.

2 The petitioner is husband and respondent is wife. The respondent/wife has filed a maintenance case in M.C.No.11 of 1999 before the learned Magistrate No.IV, Vellore and by order dated 28.06.2001, the learned Magistrate, had awarded Rs.500/- as maintenance to the respondent/wife. After nine years, the respondent/wife has filed a petition under Section 127 of Cr.P.C. praying to enhance the maintenance from Rs.500/- to Rs.5,000/- per month, before the learned Judicial Magistrate, Vellore, in M.C.No.45 of 2009. The learned Judicial Magistrate, after due enquiry, by order dated 28.03.2012 had enhanced the maintenance at Rs.4,000/-, against which the husband has preferred this revision.

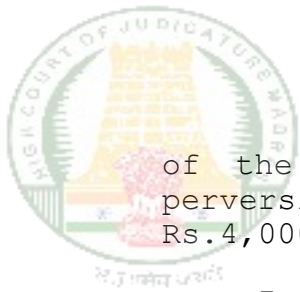


3 According to learned counsel appearing for the petitioner/husband, the respondent was leading immoral life and also deserted the petitioner and left the matrimonial home without any valid reason. Therefore the petitioner is not liable to pay the enhanced maintenance. More so, the petitioner has got decree of divorce from the competent Court. Further the respondent/wife did not produce any proof for income of the petitioner/husband and the learned Magistrate, under presumption, had erroneously enhanced the maintenance, which warrants interference.

4 Learned counsel appearing for respondent/wife would submit that the petitioner himself admitted that he has some immovable properties. The petitioner has got divorce only on the ground of desertion and cruelty and not on the ground of adultery as alleged by the petitioner/husband. Despite having sufficient means, the petitioner neglected the respondent/wife to maintain. The respondent/wife is struggling to maintain herself with the 500/- ordered by the Magistrate in the year 2001. Now, after nearly 9 years, the respondent had filed a petition seeking enhancement of maintenance and the Magistrate also, after full fledged enquiry, had enhanced the maintenance at Rs.4,000/- p.m. which is very reasonable and the same does not call for any interference.

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

6 It is seen that the petition filed by the respondent/wife seeking maintenance has been allowed and Rs.500/- was awarded in the year 2001 and neither party has challenged the same. After nine years, the respondent/wife had filed petition seeking enhancement of the maintenance, and the Magistrate also considering the cost of living prevailing in this Country, has enhanced the maintenance at Rs.4,000/- p.m. Aggrieved against the same, the husband has filed this revision stating that the respondent/wife was leading immoral life and has not even produced any proof for income of the petitioner and also contended that he got decree of divorce subsequent to the maintenance case. It is seen that the decree of divorce, which was obtained by the petitioner, has been granted only on the ground of desertion and cruelty and not on the ground of adultery as rightly stated by the learned counsel for the respondent/wife. The respondent wife, after nine years of order of maintenance at Rs.500/-, has filed a petition seeking enhancement and the Court has also enhanced the maintenance at Rs.4,000/-. Considering the cost of living and also the fact that petitioner has not challenged the maintenance of Rs.500/- awarded in the year 2001, and the respondent sought enhancement



of the same, after 9 years, this Court does not find any perversity in the order of enhancement of maintenance at Rs.4,000/- by the learned Chief Judicial Magistrate, Vellore.

7 In the result, this criminal revision case is dismissed and the petitioner/husband is directed to pay entire arrears of enhanced maintenance within a period of six weeks from the date of receipt of a copy of this order without fail, failing which, the respondent/wife is at liberty to initiate necessary proceedings before the Court below. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Judicial Magistrate,
Vellore.

+1cc to Mr.V.Bhiman Advocate, S.R.No.49895

+1cc to Mr.R.Balakrishnan Advocate, S.R.No. 49567

KK(CO)

CB(06/09/2019)

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