

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
Crl.R.C.No.57 of 2012 and
M.P.Nos.1 & 3 of 2012 and 1 of 2013

Ramesh ...Petitioner/ Respondent
Vs.

1. Uma Maheswari
2. Eatheeswaran (Minor)
3. Gowthaman (Minor)

R2 & R3 rep. by their mother/
natural guardian R1
Respondents/ Petitioners

...

Prayer: This Criminal Revision case filed under Sections 397 and 401 of Code of Criminal Procedure to set aside the order in M.C.No.10 of 2008 dated 31.10.2011 passed by the learned Judicial Magistrate No.II, Thiruvallur, Thiruvallur District.

For Petitioner : Mr.Kasthuri Ravichandran
For Respondents: Notice Served - No Appearance

ORDER

This criminal revision case has been filed against the order dated 31.10.2011 passed by the learned Judicial Magistrate No.II, Thiruvallur, Thiruvallur District, in M.C.No.10 of 2008.

2 The revision petitioner is husband, first respondent is wife and 2nd & 3rd respondents are minor children. The respondents filed a case in M.C.No.10 of 2008 under Section 125 of Cr.P.C. against the petitioner/husband seeking maintenance before the learned Judicial Magistrate No.II, Thiruvallur. The learned Magistrate, after enquiry and after hearing both the counsel, by order dated 31.10.2011, awarded maintenance at Rs.4,000/- to the first respondent/wife and Rs.2,000/- to each of the minor respondents 2 & 3 and also directed the petitioner/husband to pay Rs.5,000/- to each of the respondent per year

towards medical expenses. Aggrieved against the same, the husband is before this Court with the present criminal revision case.

3 According to learned counsel appearing for the petitioner/husband, now the petitioner is not working at Abudabi and is not a earning member. He is getting only Rs.5,000/- and out of which, he has to maintain himself and other family members. The first respondent/wife has left the matrimonial home on her own accord, without any valid reason. Therefore she is not entitled for maintenance and the petitioner is not liable to pay the maintenance. The learned Magistrate has failed to consider the above facts and erroneously awarded maintenance, which warrants interference.

4 Even though notice served on the respondents, they have not appeared before this Court. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5 Relationship between the parties and paternity of the minor respondents 2 & 3 are not disputed and the respondents are living separately. It is contended by the the revision petitioner that now he is not working at Abudabi, but, the learned Magistrate, after hearing both the counsel, has come to the conclusion, that the revision petitioner is getting Rs.30,000/- per month as salary and he is liable to pay maintenance to his wife and children. It is seen that the revision petitioner/husband has not proved that the first respondent has sufficient means to maintain herself. In the absence of the same, this Court finds that there is no perversity in the order passed by the learned Magistrate, since considering the cost of living prevailing now a days and the Magistrate has ordered only Rs.4,000/- to the first respondent and Rs.2,000/- to each of the minor respondents 2 & 3, which seems to be very reasonable.

6 In the result, this criminal revision case is dismissed. The petitioner husband is directed to pay arrears of maintenance immediately to the respondents. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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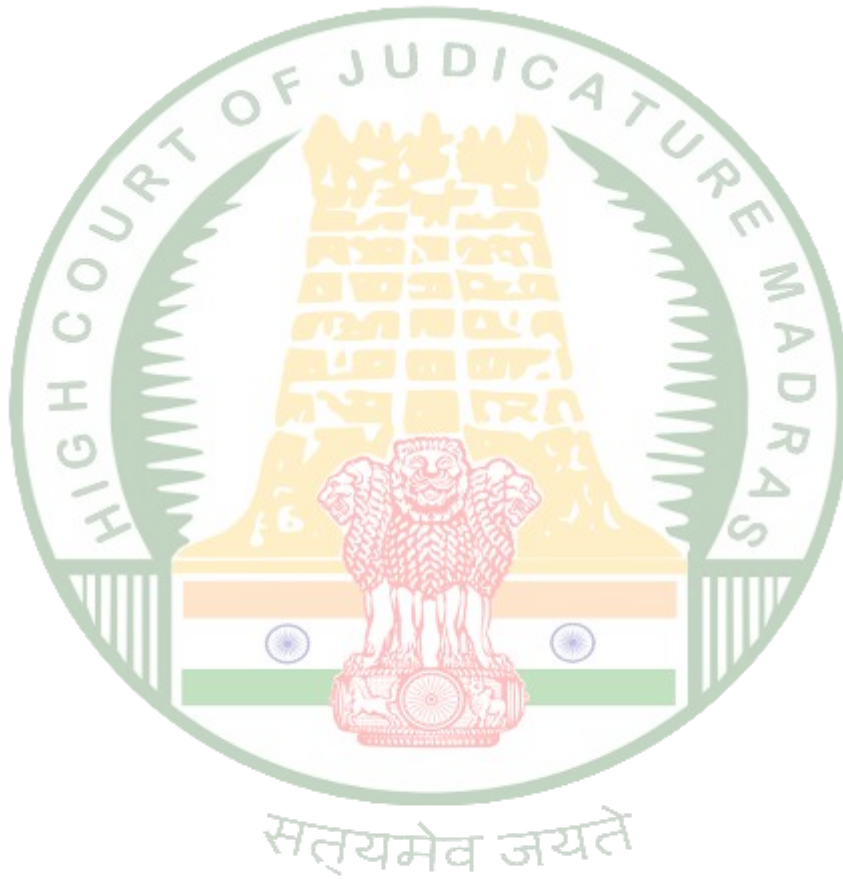
To

The Judicial Magistrate No.II, Thiruvallur,
Thiruvallur District.

Crl.R.C.No.57 of 2012 and
M.P.Nos.1 & 3 of 2012 and 1 of 2013

mr

A.SK(30/09/2019)



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