



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.975 of 2012 and
M.P.No.1 of 2012

R.Muniyappan

...Petitioner

Vs.

1. Sumithra
 2. M.Gowsalya (minor)
 3. Sasikumar (minor)
- R2 and R3 Minors rep. by their
mother, natural guardian R1.

...Respondents

The Criminal Revision case filed under Section 397 read with 401 of Code of Criminal Procedure seeking to call for records relating to the order dated 16.12.2011 passed by the learned III Additional Principal Judge, III Additional Family Court, Chennai, and set aside the same and dismiss the maintenance case in M.C.No.508 of 2008 on the file of the III Additional Family Court, Chennai.

For Petitioner : Mr.G.Magesh Kumar - No Appearance

For Respondents : Mf.D.N.Dhurgasha

ORDER

The present revision has been filed against the order of maintenance passed by the learned III Additional Principal Judge, III Additional Family Court, Chennai, in M.C.No.508 of 2008, dated 16.12.2011.

2 When the matter is called for hearing, there is no representation on behalf of the petitioner. Since the revision is pending from the year 2012 and the issue involved in the petition is order of maintenance, this Court is inclined to dispose of the revision on merit and gone through the papers.

3 The learned counsel appearing for the respondents would submit that while admitting the revision, this Court, by order dated 16.08.2012, granted interim stay on condition that the petitioner shall deposit a sum of Rs.76,000/- and further directed to pay a sum of Rs.3,000/- as monthly maintenance to



the first respondent directly, but the petitioner/husband did not comply with none of the above conditions and till date he has not paid single rupee to the respondents. The petitioner is having means and he has two lorries and he gets Government Contract and earning Rs.11,000/- p.m., but he is not even maintaining his own children.

4 Heard the learned counsel appearing for the respondents and carefully perused the materials available on record.

5 The petitioner is husband, 1st respondent is wife and 2nd and 3rd respondents are children. Since the respondents are living separately and the revision petitioner has failed to maintain them, they filed a case in M.C.No.508 of 2008 under Section 125 of Cr.P.C seeking maintenance. The learned III Additional Principal Judge, III Additional Family Court, after considering the oral and documentary evidence, found that the petitioner, being a lorry driver, could earn at least Rs.500/- per day and Rs.15000/- p.m. and he is liable to maintain his wife and children, therefore by order dated 16.12.2011, ordered Rs.2,500/- to the first respondent wife and Rs.750/- each to 2nd and 3rd respondents/children and challenging the same the husband is before this Court.

6 As already stated the petitioner/husband has not appeared before this Court and he has not even comply with order passed by this Court on 16.08.2012. Considering the fact that the first respondent/wife having two children and without any assistance she is struggling for her livelihood and the Family Court has awarded a reasonable amount as maintenance, this Court does not find any perversity in the order passed by the Family Court and there is no merit in the revision and there is no reason to interfere with the order of maintenance.

7 In the result, the criminal revision is dismissed as devoid of merit and substance and the petitioner/husband is directed to pay entire arrears of maintenance to the first respondent directly within a period of four weeks from the date of receipt of a copy of this order, failing which, the respondents are at liberty to move the Family Court for getting arrears of maintenance. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cgi



To

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

WEB COPY

copy to: The Section Officer,
Criminal Section, High Court, Madras.

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M.P.No.1 of 2012

SV (CO)
SSM(21/08/2019)