

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Cr1.R.C.No.983 of 2012
and
MP.No.1 of 2012

1. Hemalatha @ Latha
2. Minor Vijaya Ragavan
3. Minor Vijaya Ramanan ...Petitioners

Vs.

Gopi ...Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to call for the records and set aside the order dated 03.06.2010 made in Criminal Revision Petition No.06/2009 passed by the learned Principal Sessions Judge, Vellore, Vellore District insofar as the first petitioner is concerned and to confirm the order made in M.C.No.12 of 2005 dated 11.03.2008 passed by the learned Chief Judicial Magistrate, Vellore.

For Petitioners: Mr.G.Pugazhenthir

For respondent : Mr.K.Govi Ganesan

O R D E R

This Criminal Revision has been filed to set aside the order dated 03.06.2010 made in Criminal Revision Petition No.06 of 2009 passed by the learned Principal Session Judge, Vellore, Vellore District insofar as the first petitioner is concerned and to confirm the order made in M.C.No.12 of 2005 dated 11.03.2008 passed by the learned Chief Judicial Magistrate, Vellore.

2. The first petitioner is the wife, the respondent is the husband and the petitioners 2 and 3 are their minor children. The revision petitioners filed a case in MC.No.12 of 2005 seeking maintenance before the learned Chief Judicial Magistrate, Vellore. The learned Chief Judicial Magistrate,

after enquiry, by order dated 11.03.2008, directed the respondent/husband to pay a sum of Rs.1500/- per month to each of the petitioner [totalling to Rs.4,500/-] towards maintenance. Challenging the said order, the respondent/husband filed the Criminal Revision Petition No.06 of 2009 before the learned Principal Sessions Judge, Vellore. After hearing the arguments, the learned Sessions Judge, allowed the revision petition in part by confirming the maintenance awarded to the petitioners 2 and 3/minor children and modified the order of maintenance awarded to the first petitioner/wife by directing the respondent/husband to pay maintenance at the rate of Rs.1,500/- per month from the date of the maintenance petition to till February, 2007. Against the said order, the wife and minor children filed the present revision before this Court.

3. The learned counsel appearing for the revision petitioners would submit that the learned Sessions judge failed to consider the fact that the appointment of the first petitioner is not a permanent one and she may be ousted from service at any point of time. The learned Chief Judicial Magistrate rightly awarded a sum of Rs.1,500/- to the first petitioner towards maintenance, whereas, the learned Sessions Judge modified the order of maintenance at the rate of Rs.1,500/- per month from the date of the maintenance petition to till February 2007, which warrants interference.

4. The learned counsel appearing for the respondent would submit that during cross-examination on 16.11.2007, the first petitioner/wife herself admitted that she had been working in a Matriculation School for the past six months. Though the learned Chief Judicial Magistrate failed to consider the fact that the first petitioner/wife had been working in the Matriculation School, the learned Sessions Judge rightly considered the said fact and awarded the maintenance amount from the date of the maintenance petition to till February, 2007, warrants no interference.

5. Heard the learned counsel for the petitioners and the learned counsel for the respondent and also perused the materials available on records.

6. On reading of the entire records, it is seen that the main prayer in the maintenance case itself shows the maintenance amount required for the first petitioner/wife is Rs.2,000/- per month and Rs.1,500/- for the petitioners 2 and 3. Both the Courts below found that the first petitioner is qualified for doing job in teaching profession and during cross-examination, the first petitioner/wife has also admitted that she got job from February 2007. Since the case was filed in the year 2005, the learned Chief Judicial Magistrate awarded a sum of

Rs.1,500/- to the first petitioner as maintenance, whereas, the learned Sessions Judge has rightly modified by granting a sum of Rs.1,500/- to the first petitioner towards maintenance from the date of filing of the maintenance petition to till she got job, i.e., February, 2007.

7. In view of the above, this Court finds no merit in the present revision and the same is liable to be dismissed. Accordingly, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is also closed.

Kmi

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate,
Vellore.

2. The Principal Sessions Judge,
Vellore.

Copy to:-

The Section Officer,
Criminal Section,
High Court, Madras - 104.

+1cc to Mr.K.Govi Ganesan, Advocate, SR.No.62971

+1cc to Mr.G.Pugazhenthii, Advocate, SR.No.63205

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Kak(14/10/2019)

सत्यमेव जयते

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