

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1108 of 2013  
and  
MP.Nos.1 & 2 of 2013

K.Shanmugam

.. Petitioner

Vs

Mohana

.. Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to call for the records in CMP.No.6316 of 2012 in MC.No.8 of 2011 on the file of Judicial Magistrate, Ambattur and set aside the Judgment dated 10.05.2013 and reduce maintenance sum from Rs.3000/- to to Rs.1000/- a month.

For Petitioner : No Appearance

For Respondent : Notice Not Served

O R D E R

This Criminal Revision has been filed by the petitioner seeking to set aside the order dated 10.05.2013 passed in M.C.No.8 of 2011 by the learned Judicial Magistrate, Ambattur.

2. When the matter was listed on 01.11.2018, none appeared on behalf of the revision petitioner as well as respondent. Today also, there is no representation for the revision petitioner. This Court is inclined to dispose the revision on merits. Perused the materials available on record.

3. It is seen from the records that the revision petitioner is the husband and the respondent is the wife. The respondent/wife initially filed a case in MC.No.8 of 2011 before the learned Judicial Magistrate, Ambattur. The learned Magistrate, after elaborate enquiry, awarded a sum of Rs.3,000/- as maintenance to the wife from the date of filing of the

petition, by an order dated 30.07.2012. Subsequently, the husband filed petitions under Section 127(1) of Cr.P.C in CMP.No.6316 of 2012 seeking to modify the maintenance order and CMP.No.1396 of 2013 to set aside the order dated 31.07.2012 passed in MC.No.8 of 2011. After hearing the arguments, the learned Magistrate found that there was no reason to interfere with the order passed in MC.No.8 of 2011 and dismissed the petitions filed by the petitioner/husband, by order dated 10.05.2013. Challenging the said order, the husband filed the present revision before this Court.

4. It is seen from the records that the petitioner stated that the respondent/wife has immovable properties and she is also earning a sum of Rs.6,000/- per month. Since she is having sufficient means to maintain herself, the order of the Court below is liable to be modified. Further, the revision petitioner retired from his Government Service and he can not pay the maintenance amount as ordered by the learned Magistrate. The petitioner has another wife and two children out of the second marriage. Since he is having other wife and children, he is not in a position to pay the maintenance amount to the respondent. The respondent/wife left the matrimonial home without any valid reason and she also obtained ex-parte decree of divorce and therefore, she is not entitled to get the maintenance. She has also received a sum of Rs.6,000/- as alimony and therefore, the order of learned Magistrate is liable to be set aside.

5. On reading of the entire materials, it is seen that the revision petitioner is earning a sum of Rs.12,297/- as pension, out of which, he is maintaining his second wife and children and therefore, he is not in a position to pay the maintenance to the respondent. Though the revision petitioner stated that the respondent is earning a sum of Rs.6,000/- by working as Senior Grade Tailor, he has not produced any document to prove the same. The learned Magistrate, considering the entire facts, found that the petitioner was working as Government Employee, subsequently, after employment, got pension and therefore, awarded a sum of Rs.3,000/- per month. Subsequently, the petitioner/husband filed petitions in CMP.No.6316 of 2012 seeking to modify the maintenance order and CMP.No.1396 of 2013 to set aside the order passed in MC.No.8 of 2011 and the same was dismissed by the learned Magistrate, by order dated 10.05.2013.

6. Considering the facts of the case and cost of living prevails as on date, the maintenance amount of Rs.3000/- is not on higher side. This Court does not find any perversity in the

order passed by the learned Magistrate and there is no merit in the revision and the same is liable to be dismissed.

7. Accordingly, this Criminal Revision Case is dismissed. The order dated 10.05.2013 in CMP.No.6316 of 2012 in MC.No.8 of 2011 by the learned Judicial Magistrate, Ambattur, is hereby confirmed. The revision petitioner is directed to deposit the entire arrears of maintenance from the date of filing the maintenance case till today into the Court below. The revision petitioner is also directed to pay the monthly maintenance amount of Rs.3,000/- to the respondent as directed by the Court below. Consequently, connected miscellaneous petitions are also closed.

Sd/-  
Assistant Registrar(CCC)

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Sub Assistant Registrar

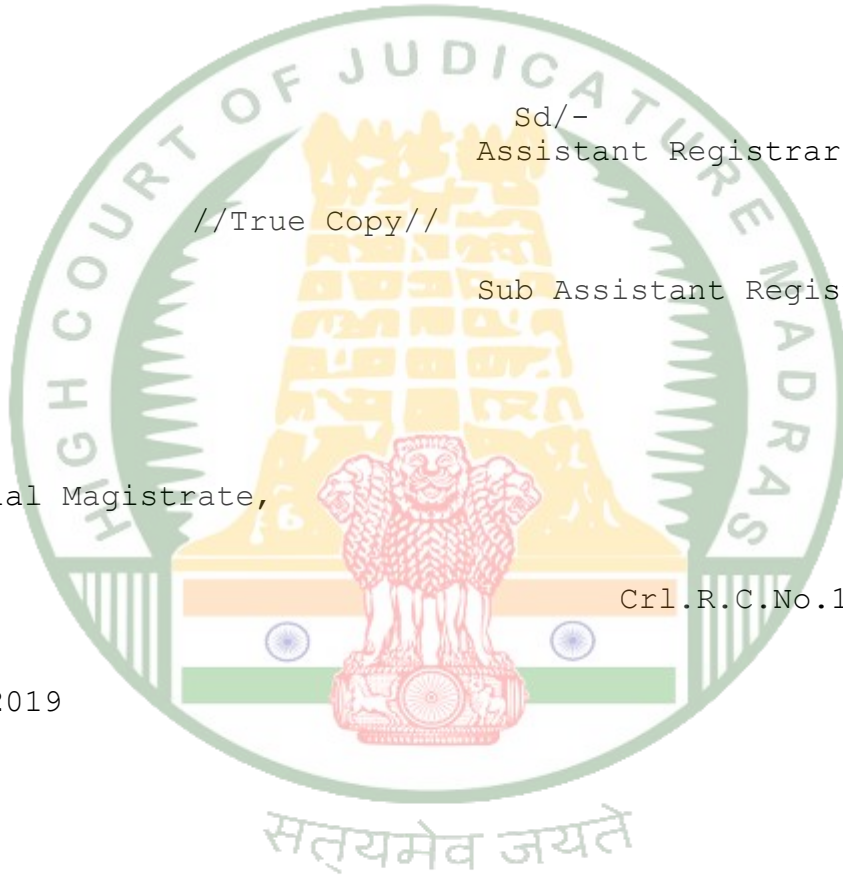
KMI

To

The Judicial Magistrate,  
Ambattur.

Crl.R.C.No.1108 of 2013

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