

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2019

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.RC.No.1148 of 2013

Jothimani @ Gnanambika ... Petitioner/Petitioner

vs

PanchatcharamRespondent/Respondent

Prayer Criminal Revision is filed under Section 397 r/w 401 of Code of Criminal Procedure, against the order passed by the learned District Munsif cum Chief Judicial Magistrate, Tiruvettriur in M.C.No.5 of 2001 dated 4/8/03 rejecting maintenance to the petitioner, the petitioner is preferring this revision to call for the records and revise the same.

For Petitioner : Mr.V.Rajamohan

For Respondent : Mr.R.Dhamodharan

No Appearance

ORDER

The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 30.06.1982, and out of their wedlock, they blessed with two children. Since the respondent caused cruelty to the petitioner, the petitioner left the matrimonial home along with her children and now she is living in her parental house. Thereafter, the petitioner filed a petition under Section 125 Cr.P.C., for maintenance before the learned Judicial Magistrate, Thiruvetriur. After an elaborate enquiry, the learned Judicial Magistrate, awarded a sum of Rs.500/- each to the children towards maintenance. Challenging the said order of the learned Judicial Magistrate, Thiruvetriur, in M.C.No.5 of 2001, the petitioner herein filed the present Criminal Revision Case before this Court.

2 The learned counsel for the petitioner would submit that the relationship of the parties are not in dispute. The

petitioner is living separately along with her children in her parental house. The respondent is also living separately and he is working in CPCL company and getting salary of Rs.10,000/- per month. Since the respondent/husband caused cruelty to the petitioner, the petitioner filed a case for maintenance. The learned Judicial Magistrate dismissed the said case as against this petition, which warrants interference by this Court.

3 Today when the matter is taken up for hearing, there is no representation on behalf of the respondent.

4 Heard the learned counsel for the petitioner and perused the materials available on records.

5 On reading of the entire materials, the marriage of the parties are not in dispute. The paternity of the children also not in dispute. The main dispute is that according to the petitioner, the respondent caused cruelty to the petitioner. Therefore, the petitioner left the matrimonial home along with her children and living separately in her parental house.

6 According to the respondent, the petitioner had illegal intimacy with one Deenadhayan and he had given a complaint against the said Deenadhayan. On the side of the respondent it is clearly stated that he has seen the Deenadhayan with the petitioner in his house, and on the other hand the petitioner has not denied the same. He has frequently visited the house of the respondent.

7 The learned Judicial Magistrate found that as she had a illegal intimacy with one person, she is not entitled to get maintain from the respondent, and therefore, the respondent is not liable to pay the maintenance to her as claimed by her. So far as, the children are concerned, there is no dispute with regard to the paternity of the children. Though the respondent himself admitted that as per the salary certificate he was getting Rs.4,698/- per month, the learned Magistrate has awarded a sum of Rs.500/- each to the children towards maintenance.

8 Considering the facts and circumstances of the case, a sum of Rs.500/- may not be sufficient for them. At the same time, this Court does not find any perversity in the order passed by the learned Judicial Magistrate as against the petitioner for disallowing the maintenance. So far as the quantum of the award for the children are concerned, considering the fact the respondent is working in the CPLC Company, this Court is inclined to enhance the maintenance amount from a sum of Rs.500/- to Rs.1000/- each to the children towards maintenance from the date of filing of maintenance case before the learned Magistrate.

9 Accordingly, with the above modification this Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbn

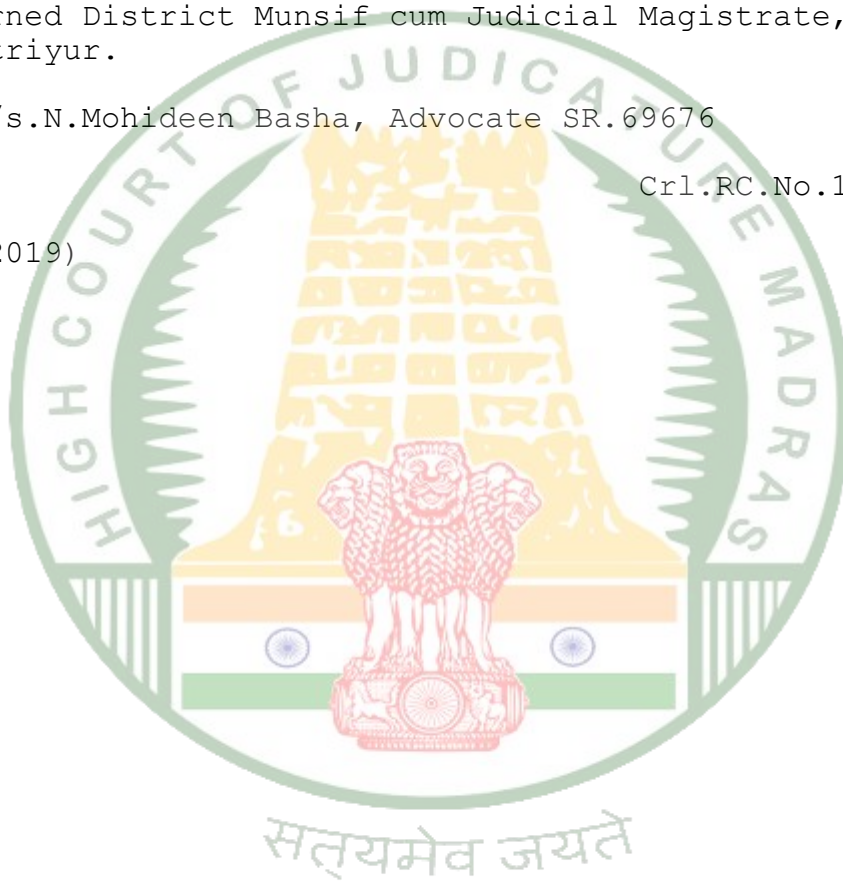
To

1.The learned District Munsif cum Judicial Magistrate,
Tiruvettriur.

+1cc to M/s.N.Mohideen Basha, Advocate SR.69676

Cr1.RC.No.1148 of 2013

SSD(CO)
CB(22/10/2019)



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