

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2019

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.No.129 of 2013

Mari Muthu

..Petitioner/Respondent

Vs.

1.Shanmuga Priya

2. Minor Jaya Suriya

..Respondents/Petitioners

Criminal Revision Petition filed under Section 397 r/w. 401 Cr.P.C to set aside the order dated 07.4.2011 passed in C.M.P.No.8045 of 2010 in M.C.No.1 of 2001 on the file of the Judicial Magistrate No.II, Hosur.

For Petitioner : Ms.Jayasri Baskar

For Respondents : No appearance

O R D E R

This Criminal Revision has been preferred challenging the order dated 07.04.2011 passed by the Judicial Magistrate No.II, Hosur in C.M.P.No.8045 of 2010 in M.C.No.1 of 2001.

2. For the sake of convenience, the parties will be referred to by their name.

3.Marimuthu got married to Suseela Rani on 04.09.1989 and they were blessed with two children Shanmugapriya and Jayasuriya. Suseela Rani and her husband were State Government servants. Their matrimonial life ran into rough weather resulting in their estrangement. Therefore, Suseela Rani filed M.C.No.1 of 2001 under Section 125 Cr.P.C in the Court of Judicial Magistrate No.II, Hosur claiming maintenance for her two children from Marimuthu.

4. Suseela Rani examined herself as PW1 and marked Exs.P1 to P3. Marimuthu examined himself as DW1 and marked Exs.R1 to R7.

5. After considering the evidence on record, the learned Judicial Magistrate II, Hosur, by order dated 11.07.2002, awarded maintenance of Rs.500/- per month each to the two children. Thereafter Suseela Rani filed a petition in

C.M.P.No.8045 of 2010 in M.C.No.1 of 2001 under Section 127(1) Cr.P.C for enhancement of the maintenance for the two children. After bitter contest, the Judicial Magistrate II, Hosur by order dated 07.04.2011 in C.M.P.No.8045 of 2010 in M.C.No.1 of 2001 enhanced the monthly maintenance from Rs.500/- each to Rs.3000/- for Shanmugapriya and Rs.1500/- for Jayasuriya from the date of the petition. Challenging the said order, Marimuthu is before this Court.

6. Notice has not been served on the respondent.

7. Ms. Jayasri Baskar, learned counsel for Marimuthu submitted that the trial Court has made a very steep enhancement from Rs.1000/- (to both children) to Rs.4500/-, which requires interference of this Court. She also submitted that admittedly Shanmugapriya had attained the age of majority and therefore, she will be disentitled to maintenance under Section 125 Cr.P.C. She further contended that Jayasuriya has also attained the age of majority now and therefore he will not be entitled to any maintenance.

8. This Court gave its anxious consideration to the aforesaid submissions.

9. The original order of maintenance was passed by the trial Court on 11.07.2002 in which the maintenance amount was fixed at Rs.500/- per month for each child. The enhancement petition was filed after 10 years by which time the cost of living had risen. Though Suseela Rani is employed in the State Government, yet Marimuthu cannot be absolved of his liability to maintain the children born to him.

10. As regards the contention that Shanmugapriya had attained the age of majority and therefore, she would not be entitled to maintenance, the trial Court has rightly relied upon the judgment of Supreme Court in Jagdish Jugtawat Vs. Manjulaltha and others reported in 2002 SCC (Cr)1147, wherein the provisions of Section 125 Cr.P.C and Section 20(3) of the Hindu Adoption and Maintenance Act were considered and the Apex Court held that a female child, even after she attained the age of majority, will be entitled to maintenance from her father till her marriage.

11. In such view of the matter, this Court does not find any infirmity in the order passed by the trial Court warranting interference.

12. Ms. Jayasri Baskar, learned counsel for Marimuthu submitted that Shanmuga Priya is now gainfully employed and Jayasuriya has also become a major. If that is so, liberty is

given to Marimuthu to file a petition under Section 127 Cr.P.C for alteration of maintenance before the trial Court and the same shall be considered on merits. However, Marimuthu is now paying only 50% of the enhanced amount on account of the interim order passed by the Court. He is directed to pay the balance amount of maintenance to Jayasuriya till the date of attaining majority.

In the result, the criminal revision petition is dismissed.

gpa

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II
Hosur
2. -Do- Thro' The Chief Judicial Magistrate,
Krishnagiri.
3. The Public Prosecutor,
High Court, Madras - 600 104.

+1cc to Mr.K.V.Sridharan, Advocate, SR.No.87823

Cr1.R.C.No.129 of 2013

Kak(19/11/2019)

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