



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2019

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.RC.No.429 of 2013

and

Cr1.M.P.No.1 of 2013

Mohamed Ghouse Basha

.... Petitioner

vs

Mahaboo Beevi

.... Respondent

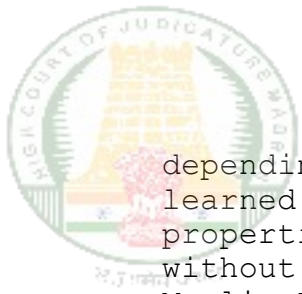
Prayer Criminal Revision is filed under Section 397 r/w 401 of Code of Criminal Procedure, to set aside the order in M.C.No.03 of 2007 on the file of the Chief Judicial Magistrate, Chengalpattu, dated 27.09.2012 and thereby allow the Criminal Revision Case.

For Petitioner	: Mr.R.C.Paulkanagaraj
For Respondent	: Notice not Served

ORDER

The petitioner is the son and the respondent is his mother. The respondent herein filed a petition under Section 125 Cr.P.C., against his son for maintenance in M.C.No.3 of 2007, before the learned Chief Judicial Magistrate, Chengalpattu. After hearing the arguments advanced on either side, the learned Chief Judicial Magistrate, Chengalpattu, awarded a sum of Rs.1,200/- per month to the respondent herein towards maintenance. As against the said order of the learned Chief Judicial Magistrate, Chengalpattu in M.C.No.03 of 2007, the petitioner herein filed a criminal revision before this Court.

2 The learned counsel for the petitioner would submit that he has no means to maintain his mother, after his marriage for the past 17 years, he was living separately with his wife. Further the petitioner took prolonged treatment and under went surgery at various hospital. Even after best treatment this respondent has not recovered fully and the respondent is



depending on others for her daily day to day activities. The learned counsel further submitted that she is owning landed properties. But she suppressed the facts and filed the petition without any basis. As per the provision contemplated under the Muslim Women (Protection of rights on Divorce) Act 1996 a Muslim lady can not claim maintenance under Section 125Cr.P.C., hence the petition under Section 125 Cr.P.C., is untenable, which warrants interference by this Court.

3 Heard the learned counsel for the petitioner and perused the materials available on record, when the revision is taken up for consideration, there is no representation on behalf of the respondent.

4 On a perusal of records, the respondent herein had filed the petition under Section 125 Cr.P.C., for maintenance before the learned Chief Judicial Magistrate, Chengalpattu. The relationship between the parties are not in dispute both of them are living separately that is also not disputed herein. The main ground taken by the revision petitioner is that he is not in a position to maintain his mother and he is also undergoing treatment and he himself depending on others for his daily day to day activities. As per the provision contemplated under the Muslim Women (Protection of rights on Divorce) Act 1996 a Muslim lady can not claim maintenance under Section 125Cr.P.C. The contention raised by the learned counsel for the petitioner is that the respondent herein is not entitled to get maintenance.

5 Considering the facts and circumstances of the case and also the petitioner is under treatment. However, the respondent is the lady and now she is aged above 65 years and not able to maintain herself and she is now depending upon her daughters for her food and shelter, but her daughters are not having sufficient means and source to maintain the respondent.

6 On reading of the entire evidences the petitioner is being the son of the respondent and having all source of income and sufficient means to maintain the respondent. Under these circumstances, this Court finds that the respondent is entitled to claim maintenance from her son. The learned Chief Judicial Magistrate, Chengalpattu awarded a sum of Rs.1,200/- per month, which is very reasonable. Considering the cost of living and also a sum of Rs.1,200/- per month is very meager amount.



7 This Court does not find any perversity in the order passed by the learned Chief Judicial Magistrate, Chengalpattu in M.C.No.03 of 2007. Accordingly, the Criminal Revision Case stands Dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

sbn

To

The Chief Judicial Magistrate,
Chengalpattu.

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

Crl.RC.No.429 of 2013
and
Crl.M.P.No.1 of 2013

AK(CO)
CSR: 10.01.2020