



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.311 of 2019

and

Crl.M.P.No.3720 of 2019

C.Shivakumar @ Chinnathambi

... Petitioner

Vs

1.Chandra

2.Minor Nithya

3.Minor Sathivel

(Minors are rep by Mother Chandra)

...

Respondents

PRAYER: Criminal Revision case filed under Section 482 of the Criminal Procedure Code, to set aside the order dated 05.01.2019, passed in M.C.No.37 of 2018 on the file of the learned Judicial Magistrate No-I, Attur.

For Petitioner : Mr.A.Rajakumar

O R D E R

This Criminal Revision Case has been filed to to set aside the order dated 05.01.2019, passed in M.C.No.37 of 2018 on the file of the learned Judicial Magistrate No-I, Attur.

2 The petitioner is the husband, the first respondent is the wife and the second and third respondents are the minor children of the petitioner and the first respondent. The marriage between the petitioner and the first respondent was solemnized on 23.08.2001, as per the Hindu rites and customs. Then they lived together in the matrimonial home, thereafter they were blessed with two children. Due to the difference of opinion, the first respondent left the matrimonial home along with the second and third respondents. Subsequent to that, the first respondent filed a petition for maintenance under Section 125 of Cr.P.C., before the learned Judicial Magistrate No.I, Attur, in M.C.No.37 of 2018. After an elaborate enquiry the learned Judicial Magistrate awarded a sum of Rs.2,500/- per month to the first respondent and Rs.7,000/- each per month to the second and third respondents. As against the said order passed by the trial Court the petitioner herein filed a revision case before this Court.



3 The learned counsel for the petitioner would submit that the first respondent/wife has three acres of land and getting Rs.1,50,000/- per year. So she is able to maintain her children and the petitioner herein also paying the school fees to the children. Further, he would submit that the petitioner herein working in Tamilnadu Electricity Board and getting a salary of Rs.39,500/- per month, after deducting all the statutory deduction the petitioner is getting only Rs.18,000/- per month and also he has to take care of his age old mother, who is aged about 70 years. Hence, the learned Judicial Magistrate No-I, Attur, awarded a sum of Rs.16,500/- for maintenance to the respondents is highly exorbitant. Therefore, the learned counsel for the petitioner prays to allow this Revision Case.

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

5 Considering the facts and circumstances of the case, that the marriage between the petitioner and the first respondent is not in dispute, and the paternity of the child is also not in dispute. The respondents are not living with the revision petitioner and they are living separately. Though, the petitioner and the first respondent made so many allegations against each others, there is no reason for separation. However they have not filed any materials or documents to show the allegations. The learned counsel for the petitioner relied upon the decisions of the Honourable Supreme Court 2014 STPL (WEB) 703 SC = (2014) 42 SCD 042 Dated: 28.10.2014 (Sunitha Kachwala Vs. Anil Kachwala) . Though the petitioner has stated that the first respondent is having 3 acres of land. It is only a nanja land and it is not a punja land. The learned Judicial Magistrate has also given the reason for it.

6 Therefore, considering the cost of living and other expenses, a lady cannot maintain her two children with the limited source. There is no proof to show that the respondents are having sufficient means to maintain themselves. Hence, the trial Court awarded a sum of Rs.2,500/- to the first respondent and Rs.7,000/- each per month to the second and third respondents for maintenance is not exorbitant.

7 Therefore, under these circumstances of this case, this Court does not find any infirmity or perversity in the order



passed by the learned Magistrate. There is no merits in this revision case. Accordingly this Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sbn

To

1. The Judicial Magistrate No-I,
Attur.
2. -Do- Thro' the Chief Judicial Magistrate,
Salem.

Cr1.R.C.No.311 of 2019
and
Cr1.M.P.No.3720 of 2019

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srg 10/01/2020