

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.335 of 2019
and
Crl.M.P.No.4487 of 2019

K.Thirisangu

...Petitioner

-Vs-

1. Anjalai
2. Bharani (Minor)
(The 2nd Respondent is Minor
Rep.by his Mother and Natural Guardian,
the 1st Respondent)

...Respondents

The Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 07.02.2019 in M.C.No.20 of 2018 passed by the learned Family Court, Cuddalore.

For Petitioner : Mr.Arokiamaniraj
For Respondent : Mr.Rajavelavan

O R D E R

This Criminal Revision has been filed by the petitioner to set aside the order dated 07.02.2019 made in M.C.No.20 of 2018 passed by the learned Family Court, Cuddalore.

2. The revision petitioner is the husband and the respondents are wife and minor son. The respondents have filed the petition before the Family Court, Cuddalore, under Section 125 Cr.P.C., praying interim maintenance, which was taken on file in M.C.No.20 of 2018. The Family Court after adverting to the materials placed on record and after hearing both the parties, partly allowed the petition and the respondent therein was directed to pay a sum of Rs.5,000/- per month each to the petitioners therein and to pay a sum of Rs.10,000/- towards medical and educational expenses to his son per annum. As against the order passed by the Family Court, the revision petitioner/husband has filed this present revision before this Court.

3. The learned counsel for the petitioner/husband would submit that the petitioner has not employed and he is not having sufficient means to maintain himself and he is doing 100 day coolie work. Therefore, he is not in a position to pay such huge amount of Rs.5,000/- each. The petitioner is coolie and he is getting for a sum of Rs.150/- per day, out of which the petitioner has to take care of his aged parents and his second wife. Therefore, the learned counsel prays this Court to set aside the order passed by the Family Court.

4. The learned counsel for the respondent would submit that the respondents are unable to maintain them. The revision petitioner was working in abroad for more than five years. Now he is working as Mastry in the constructions field and getting salary of Rs.700/- per day. The revision petitioner has not established that he has no means to maintain his wife and son. The Family Court has rightly passed maintenance and there is no need to interfere with the order passed.

5. Heard the learned counsel appearing on behalf of the petitioner as well as the respondents and perused the materials placed on record.

6. It is admitted that the first respondent is the wife of the petitioner and the second respondent is the minor son. Due to the difference of opinion, the petitioner and the respondents were living separately. It is admitted fact that the revision petitioner was living with one Nithya and they have one daughter viz., Abi. The respondents have established that the revision petitioner initially gone to abroad for more than five years. Subsequently, he came to India and also working as Mastry in the construction field and getting Rs.700/- per day. There is no evidence to show that the revision petitioner has not in a position to go for any job.

7. It is not in dispute that the petitioner herein and the first respondent are husband and wife, their marriage was also admitted; paternity of the second respondent is also admitted; The respondents are not having any sufficient means and they are unable to maintain themselves. Considering the facts and circumstances of the case and cost of living prevailing as on date, the award passed by the Family Court is not excessive and this Court does not find any reason to interfere with the award passed by the Family Court. There is no merit in the revision.

8. Under these circumstances, the respondents are entitled to get maintenance from the petitioner. The petitioner is directed to continue to pay the maintenance to the respondents which was ordered by the Family Court, Cuddalore in M.C.No.20 of 2018 dated 07.02.2019.

9. With the above observation and direction, the Criminal Revision case is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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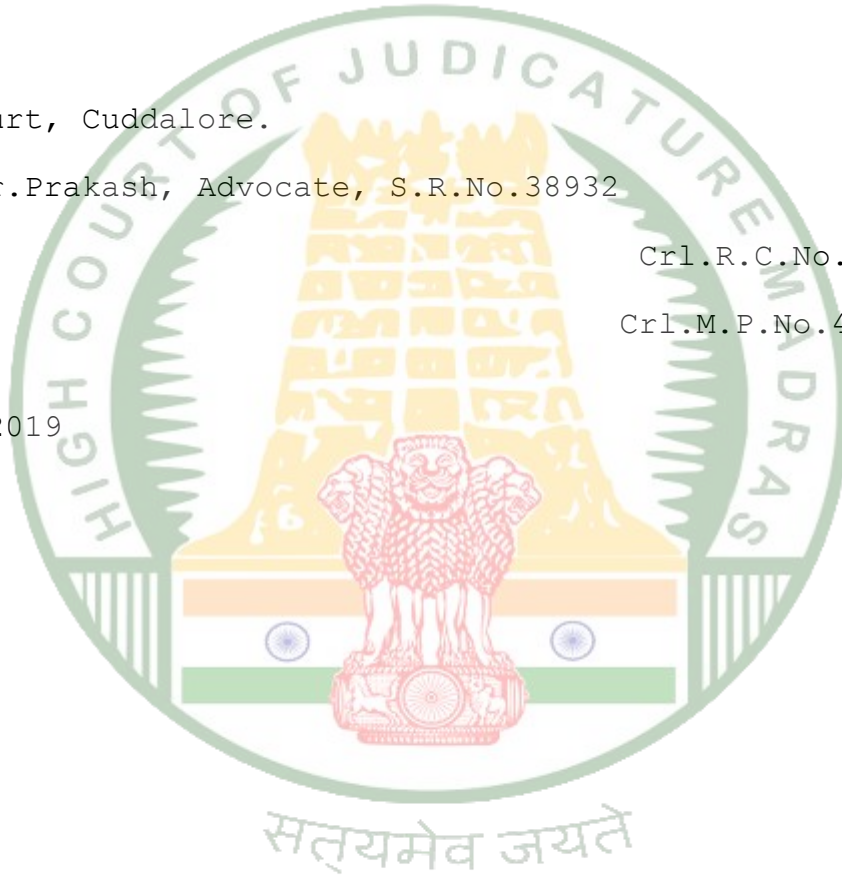
To

The Judge,
Family Court, Cuddalore.

+1cc to Mr.Prakash, Advocate, S.R.No.38932

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NMI (CO)
CS/28/11/2019



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