

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.R.C.No.201 of 2016
and
CrI.M.P.No.1392 of 2016

Rajendiran .. Petitioner/Respondent

Vs

Anjali .. Respondent/Petitioner

PRAYER: Criminal Revision is filed under Section 397 r/w 401 of Criminal Procedure Code 1973, to set aside the order passed in CMP.No.4662 of 2008 in M.C.No.8 of 2003, dated 30.05.2014 on the file of Judicial Magistrate No.1, Tirupattur, Vellore District.

For Petitioner : Mr.PA.Sudesh Kumar

For Respondent : Mr.V.Jeevagiridharan

O R D E R

This criminal revision has been filed against the order dated 30.05.2014 passed by the Judicial Magistrate No.1, Tirupattur, Vellore District in CMP.No.4662 of 2008 in M.C.No.8 of 2003.

2.The respondent/wife originally filed the case under Section 125 of Cr.P.C., in M.C.No.8/2003 for maintenance against the revision petitioner herein. The Magistrate awarded a sum of Rs.450/- towards maintenance. Subsequently, the respondent filed the petition in CMP.No.4662/2008 in the year 2008 for enhancement of maintenance, that was allowed by the Magistrate and enhanced the maintenance amount from Rs.450/- per month to Rs.2,000/- per month. Challenging that order, the petitioner herein has filed the present revision.

3.The learned counsel for the petitioner would submit that the respondent is not a legally wedded wife of the revision petitioner. Originally the maintenance was not awarded to the

sons born through the respondent. Therefore, the order passed in M.C.No.8 of 2003 is only an ex-parte order. Subsequently, she filed petition in CMP.No.4662 of 2008 for enhancement of the maintenance wherein the petitioner has raised that legality of the payment of maintenance and also challenged the status of the wife which was not considered by the learned Magistrate and allowed the petition on sympathy ground which warrants interference of this Court.

4.On reading of the records, the petition in C.M.P.No.4662 of 2008 is filed for enhancement of maintenance. Originally case in M.C.No.8 of 2003 was filed by the respondent herein and in which the Magistrate awarded a sum of Rs.450/- per month that order was not challenged by any of the parties. Though, the learned counsel for the petitioner would submit that, that is an ex-parte order, even the ex-parte order is legally enforceable order, unless it is challenged before the competent Court, the same will be come into force without any hindrance. Therefore, when the original award was not challenged, the petition filed for enhancement of maintenance, the petitioner cannot take a stand that respondent is not legally wedded wife. Even otherwise, he has to prove the same in the manner known to law or at least he should have filed petition under Section 127 of Cr.P.C., for cancelling the award.

5.Under these circumstances, this Court does not find any merit in the revision filed by the petitioner and finds there is no sound reason to interfere with the order passed by the Magistrate and the revision is liable to be dismissed.

6.In the result, the criminal revision stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

AT

To

1.The Judicial Magistrate No.1, Tirupattur,
Vellore District.

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

+1 cc to Mr.PA.Sudesh Kumar, Advocate Sr.No.12936

+1 cc to Mr.V.Jeevagiridharan, Advocate Sr.No.13009 (10.06.2019)

Crl.R.C.No.201 of 2016

and

Crl.M.P.No.1392 of 2016

MR (CO)
CSL/03.04.2019



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