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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.RC.No.486 of 2016

and

CRL.MP.No.3199 of 2016

Anumuthu

.. Petitioner

Vs.

1. Shakila

2. Minor Sri Thushitha

3. Minor Oviya

.. Respondents

(Minors 2, 3 rep by her Mother)

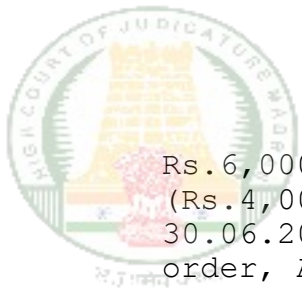
Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records of the order passed by the learned Judicial Magistrate No.I, Tiruppathur, Vellore District in M.C.No.14 of 2014 dated 05.12.2015 and set aside the same in view of the above mentioned grounds.

For Petitioner : Mr.G.Vinodh Kumar

For Respondents : Mr.Bharthi Raja

O R D E R

For the sake of convenience, the parties are referred by their name. Anumuthu was married to Shakila on 14.06.2009 and through the wedlock, they have two children viz., Sri Thushitha and Oviya. On account of matrimonial discord, the spouses got estranged, resulting, Shakila filing M.C.No.14 of 2014 before the Judicial Magistrate No.I, Tirupathur under Section 125 Cr.P.C., claiming maintenance for herself and the two children. Anumuthu entered appearance and contested the case. Shakila examined herself as PW-1 and her mother, Kuppamma was examined as PW-2. On the side of Shakila, 6 exhibits were marked. Anumuthu examined himself as RW-1 and also examined one Raja as RW-2, paternal uncle of his wife. On his side, one exhibit was marked. After considering the evidence on record, the Trial Court by order dated 05.12.2015 in M.C.No.14 of 2014 has directed Anumuthu to pay maintenance at the rate of



Rs.6,000/- per month to Shakila and Rs.2,000/- per month each (Rs.4,000/- per month) to the two children with effect from 30.06.2014, the date of filing of the petition. Challenging the order, Anumuthu is before this Court.

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2. Heard Mr.G.Vinodh Kumar, learned counsel appearing for the petitioner and Mr.Bharthi Raja, learned counsel appearing for the respondents.

3. Mr.G.Vinodh Kumar, learned counsel appearing for the petitioner submitted that Anumuthu had not deserted his wife and that she herself had gone on her own volition with her two children to her parental home. He further contended that Anumuthu does not have the means to pay Rs.10,000/- per month.

4. This Court, carefully perused the evidence of PW-1, PW-2 and RW-1 and RW-2. Anumuthu has not denied the matrimonial relationship nor the paternity of the children. Shakila (PW-1) has stated that after marriage, Anumuthu got addicted to liquor and meted out physical violence on her. She has further stated that Anumuthu did not give any money for her maintenance and for the maintenance of her children. Anumuthu in his evidence has stated that it was Shakila who had left him and had gone to stay with her mother. The evidence of Shakila and her mother Kuppamma clearly showed that Shakila was not able to live with Anumuthu because of his addiction to liquor. Therefore, the finding of the Trial Court that Shakila had ostensible reasons to live away from the company of Anumuthu cannot be faulted.

5. Coming to the quantum of maintenance, Anumuthu did not place before the Trial Court, his true earnings. Therefore, the Trial Court accepted the evidence of Shakila and awarded maintenance as stated above.

6. Taking into consideration, the facts and circumstances of the case, this Court is of the view that the interest of justice will be served, if the maintenance awarded to Shakila is reduced from a sum of Rs.6,000/- to Rs.4,000/- per month from the date of passing of this order viz., 15.07.2019, as regards the arrears of maintenance, the same will have to be calculated at the rate of Rs.10,000/- per month and three months time is granted to Anumuthu from the date of receipt of a copy of this order to deposit the arrears of maintenance either in lump sum or in installments before the Trial Court and on such deposit, Shakila will be entitled to withdraw the same. The monthly maintenance of Rs.8,000/- (Rs.4,000/- to Shakila + Rs.4,000/- to two children) shall be deposited within 10th of every English Calendar month before the Trial Court or pay directly to Shakila by depositing it into her bank account. In the event of the maintenance amount being deposited in the Trial Court, Shakila will be entitled to withdraw the same.



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7. With the above directions, the Criminal Revision Petition is ordered. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

sni

To

1.The Judicial Magistrate No.I,
Tiruppathur,
Vellore District.

+1cc to Mr.S.V.Karthikeyan, Advocate, S.R.No. 60039

+1cc to Mr.G.Vinoth Kumar, Advocate, S.R.No. 60057

CRL.RC.No.486 of 2016
and

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VSN II (CO)
GN(20/08/2019)