

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.02.2019

CORAM:  
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.709 of 2018

K.Velmurugan

...Petitioner

Vs.

1. V.Manjula

2. Minor Vijaykanna  
S/o. Velmurugan

3. Minor V.Nandhini  
D/o. Velmurugan

(Nos.2 & 3 minors rep. by  
their mother and guardian  
the first respondent)

...Respondents

Prayer: This Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure to allow the Criminal Revision Case and set aside the order dated 25.04.2018 made in C.M.P.No.206 of 2018 in F.C.M.C.No.65 of 2017 on the file of the Family Court, Vellore, Vellore District.

For Petitioner : Mr.T.Dhanyakumar

For Respondents : Mr.Arun Anbumani

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सत्यमेव जयते

O R D E R

The Criminal Revision Case has been filed to set aside the order made in C.M.P.No.206 of 2018 in F.C.M.C.No.65 of 2017 dated 25.04.2018 passed by the Family Court, Vellore District.

2. The petitioner and the first respondent are husband and wife. The second respondent and third respondent are the minor son and minor daughter. The petitioner and the respondents are living separately. Therefore, the first respondent is unable to maintain herself and their children. In view of the matrimonial dispute with the revision petitioner/husband, the respondent/wife has filed a petition under section 125 (2)

Cr.P.C., for interim maintenance in C.M.P.No.206 of 2018 in F.C.M.C.No.65 of 2017 before the learned Judge, Family Court, Vellore.

3. After enquiry, the learned Magistrate has found that the respondent is capable to maintain his wife as well as his children, but wantonly left them in lurch and thereby the learned Magistrate has awarded a sum of Rs.5000/- per month to each respondents 1 to 3. Aggrieved against the order dated 25.04.2018, the husband filed the present revision.

4. The learned counsel for the revision petitioner would submit that he is ready to maintain his family and children but the bad conduct of the first respondent as well as the doubts of the genuineness of birth of the third respondent are solely killing the respondent as his reputation and social status have been spoiled. Therefore, the order passed by the learned Magistrate may be set aside or atleast the quantum of the amount may be reduced. Hence, he filed an another petition for DNA test to prove his paternity.

5. The learned counsel for the respondents submitted that the first respondent and her children are living in poverty line and she is not unable to maintain herself and her children and unable to pay the school fees to her children. The petitioner is working in Southern Railway department and getting a sum of Rs.60,000/- per month and he owns movable property. Therefore, she filed a petition for interim maintenance. He further submitted that the respondents filed a case for maintenance. At that time, the revision petitioner has filed a petition for DNA test to prove the paternity of the child. It is only for the purpose of drag on the proceedings. Hence the learned Judge has rightly partly allowed the petition seeking interim maintenance, which does not call for any interference.

6. Considering the facts and circumstances of the case and on a reading of the materials, admittedly the revision petitioner is working as Senior Engineer in Railways after per 7th pay commission he would get minimum salary of Rs.1,00,000/- per month. However, the respondent has not produced the salary certificate of the revision petitioner. The scope of Section 125 of Cr.P.C., if the husband having sufficient means neglects or refuses to maintain his wife and children if the wife and children unable to maintain themselves, maintenance can be ordered for wife and children. Admittedly there is no dispute that the respondents unable to maintain themselves. Under these circumstances, the award passed by the family Court is reasonable. Hence, this Court does not find any reason to interfere with the order passed by the Family Court, Vellore District.

In the result, the Criminal Revision is dismissed. Since proceeding under Section 125 Cr.P.C itself is summary in nature, the Family Court is directed to dispose of F.C.M.C.No.65 of 2017 under Section 125 Cr.P.C., within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

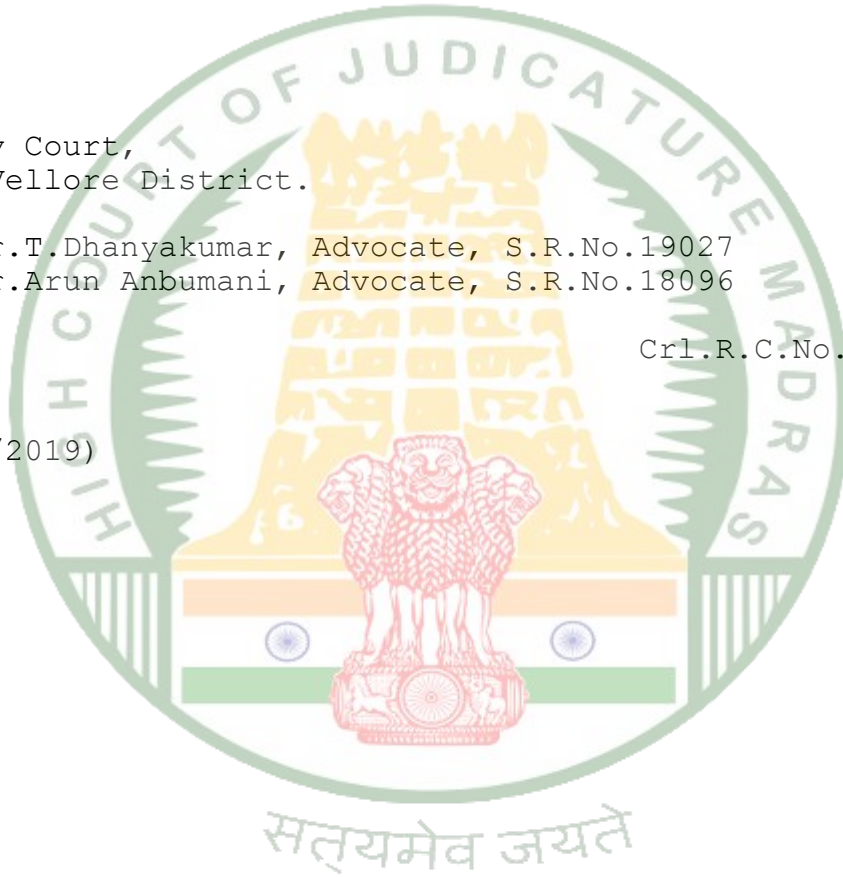
The Family Court,  
Vellore, Vellore District.

+1cc to Mr.T.Dhanyakumar, Advocate, S.R.No.19027  
+1cc to Mr.Arun Anbumani, Advocate, S.R.No.18096

Cr1.R.C.No.709 of 2018

PPA(CO)

RRS(23/04/2019)



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