

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 26.06.2019

DELIVERED ON: 04.07.2019

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.R.C. No.593 of 2019 & Crl.M.P. No.8017 of 2019

T. Ramachandran

Petitioner/Respondent

vs.

R. Hemavathy

Respondent/Petitioner

Criminal Revision filed under Section 397 & 401 Cr.P.C. seeking to set aside the order dated 04.08.2018 passed in M.P. No.497 of 2012 in M.C. No.136 of 1982 on the file of the VI Additional Family Court at Chennai.

For petitioner : Mr. K. Jayaraman

For respondent : Ms. J. Sundarakanchanai

ORDER

For the sake of convenience, the parties are referred to by their name.

2 Hemavathy got married to Ramachandran on 09.06.1978 and they have a son through the wedlock. According to Hemavathy, Ramachandran failed and neglected to maintain her and their son. Hence, Hemavathy filed M.C. No.136 of 1982 before the Family Court, Chennai under Section 125 Cr.P.C. claiming maintenance. After a bitter contest, the Family Court, Chennai, by order dated 12.03.1998, awarded a maintenance of Rs.500/- per month to Hemavathy. Thereafter, Hemavathy filed M.P. No.497 of 2012 in M.C. No.136 of 1982 under Section 127 Cr.P.C. seeking enhancement of maintenance amount. On notice, Ramachandran entered appearance and filed his counter. After hearing either side, the Family Court, by order dated 04.08.2018 in M.P. No. 497 of 2012 in M.C. No.136 of 1982, enhanced the maintenance amount from Rs.500/- per month to Rs. 5,000/- per month, aggrieved by which, Ramachandran is before this Court.

3 Heard Mr. K. Jayaraman, learned counsel for Ramachandran and Mrs.J.Sundarakanchanai, learned counsel for Hemavathy.

4 The learned counsel for Ramachandran contended that Ramachandran was diligently paying Rs.500/- per month to Hemavathy towards maintenance amount and that when the matter was referred to Lok Adalat, he even came for an one time settlement of Rs.5,80,000/-, which did not find Hemavathy's acceptance. He further contended that Ramachandran retired from service and his monthly pension is only Rs.1,772/-. In support of this contention, the learned counsel produced the document issued by the Employees' Provident Fund organization.

5 The learned counsel for Hemavathy refuted the contentions put forth by the learned counsel for Ramachandran.

6 As regards the offer of one time settlement of Rs.5,80,000/- by Ramachandran, this Court cannot force Hemavathy to accept the same. In a petition for enhancement of maintenance amount under Section 127 Cr.P.C., this Court cannot review the order passed under Section 125 Cr.P.C. and return a finding that Ramachandran had not failed and neglected to maintain Hemavathy. The short question that can be decided in a petition under Section 127 Cr.P.C. is whether there should be any alteration in the maintenance amount. In the counter filed in M.P. No.497 of 2012, Ramachandran has not given any particulars qua his employment and salary particulars, which are facts exclusive to his knowledge and it is for him to plead and prove the same. Thus, in the absence of plea and proof, the Trial Court's order dated 04.08.2018 enhancing the maintenance amount from Rs.500/-, which was awarded by the Family Court over two decades ago, to Rs.5,000/-, cannot be faulted, taking into consideration, the cost of living index.

In the upshot, this criminal revision is dismissed as being bereft of merits. Connected CrI.M.P. is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad

To

1 The Judge, VI Additional Family Court, Chennai

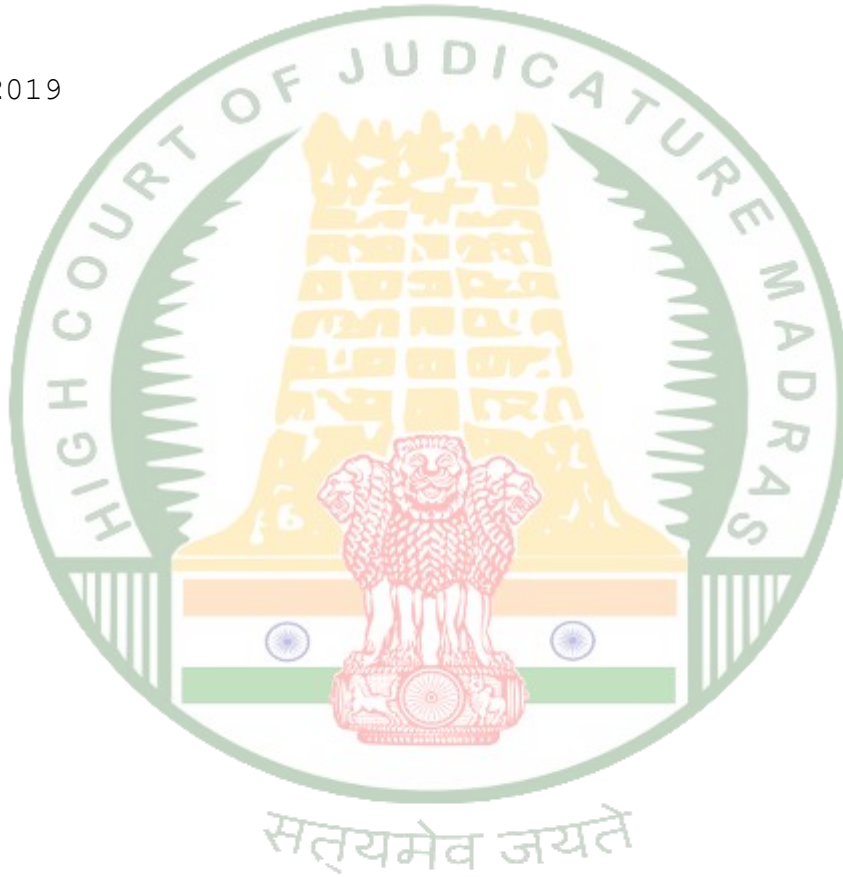
+3ccs to Ms. J. Sundarakanchanai, Advocate sr.no.55732, 53552

+2ccs to Mr. K. Jayaraman, Advocate sr.55728

Crl.R.C. No.593 of 2019

rsi(co)

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