

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.725 of 2019  
and Crl.M.P.No.10101 of 2019

Murugaiyan .. Petitioner

Vs.

1. Poongodi

2. Dharani ... Respondents

Criminal Revision filed under Section 397 r/w 401 Cr.P.C., to set aside the order dated 11.01.2019 passed in Crl.M.P.No.219 of 2012 in M.C.No.23 of 2001 on the file of the Family Court, Pondicherry, Union of Pondicherry.

For Petitioner : Mr.M.Machavatharan

O R D E R

This petition has been filed seeking to set aside the order dated 11.01.2019 passed in Crl.M.P.No.219 of 2012 in M.C.No.23 of 2001 on the file of the Family Court, Pondicherry, Union of Pondicherry.

2. For the sake of convenience, the parties will be referred to by their name.

3. The long and short of the facts is as under:

3.1 Murugaiyan got married to Poongodi and through their wedlock, they begot a daughter viz., Dharani. On account of marital discord, they got estranged, resulting in Poongodi filing M.C.No.23 of 2001 before the Family Court, Pondicherry, under Section 125 Cr.P.C. for maintenance for herself and her daughter Dharani.

3.2 The Family Court, by order dated 29.10.2001 in M.C.No.23 of 2001 awarded, maintenance of Rs.1,000/-.

3.3 While that being so, Poongodi filed Crl.M.P.No.219 of 2012 in M.C.No.23 of 2001 under Section 127 Cr.P.C. for

enhancement of maintenance. Murugaiyan entered appearance in Crl.M.P.No.219 of 2012 and contested the case.

3.4 Poongodi examined herself as PW1 and marked Exs-P1 to P6. Murugaiyan examined himself as RW1 and marked Ex-R1.

3.5 After considering the evidence on record and hearing either side, the Family Court, by order dated 11.01.2019 in Crl.M.P.No.219 of 2012 in M.C.No.23 of 2001, enhanced the maintenance from Rs.1,000/- to Rs.3,000/- per month, each (in total Rs.6,000/-), challenging which, Murugaiyan filed the present revision petition with a delay of 70 days, to condone which, he filed Crl.M.P.No.9908 of 2019 in Crl.R.C.No.SR34570 of 2019. This Court condoned the delay and took up the main case for consideration, today.

4. Heard Mr.M.Machavatharan, learned counsel for Murugaiyan, who submitted that Murugaiyan does not have any means to pay maintenance of Rs.6,000/- per month, as he has his parents to take care of. He also submitted that Murugaiyan was the one, who had paid the school fees for Dharani.

5. This Court gave its anxious consideration to the submissions made by the learned counsel for Murugaiyan.

6. At this juncture, it may be necessary to state here that a three Judge Bench of the Supreme Court, in Girish Kumar Suneja Vs CBI<sup>1</sup>, has delineated the revisional jurisdiction as under:

"27. Our conclusion on this subject is that while the appellants might have an entitlement (not a right) to file a revision petition in the High Court but that entitlement can be taken away and in any event, the High Court is under no obligation to entertain a revision petition - such a petition can be rejected at the threshold. If the High Court is inclined to accept the revision petition it can do so only against a final order or an intermediate order, namely, an order which if set aside would result in the culmination of the proceedings. As we see it, there appear to be only two such eventualities of a revisable order and in any case only one such eventuality is before us. Consequently the result of paragraph 10 of the order passed by this Court is that the entitlement of the appellants to file a revision petition in the High Court is taken

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1 (2017) 14 SCC 809

away and thereby the High Court is deprived of exercising its extraordinary discretionary power available under Section 397 of the Cr.P.C."

7. The Trial Court has considered in detail, the evidence adduced by Poongodi and Murugaiyan and only thereafter, has fixed the maintenance at Rs.3,000/- per month, each.

8. The learned counsel for Murugaiyan submitted that Dharani has attained the age of majority and therefore, she will not be entitled to maintenance from the date of majority. There is sufficient force in his submission. However, at the time of filing Crl.M.P.No.219 of 2012, Dharani was only 14 years. The order in Crl.M.P.No.219 of 2012 was passed only on 11.01.2019, by which time, if she attains the age of majority, she will not be entitled to maintenance from that date. However, till she attains the age of majority, the sum of Rs.3,000/- per month, fixed by the Trial Court, cannot be said to be excessive in the light of the today's cost of living.

In the result, the criminal revision petition is dismissed as being devoid of merits. However, it is open to Murugaiyan to file an application before the Trial Court to establish Dharani's age and discontinue the payment of maintenance for her from the date of her attaining majority. Connected Crl.M.P. is closed.

Sd/-

Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Family Judge,  
Pondicherry,  
Union of Pondicherry.

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Crl.R.C.No.725 of 2019

RR(CO)  
SSM(09/09/2019)