

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1387 of 2017

&

Crl.M.P.Nos.13568 of 2017 & 2136 of 2018

N.Vinothraj

... Petitioner/Respondent

Vs

1. S.Abinaya

2. Minor.Dharsan,
Represented by his
Mother and Natural Guardian,
S.Abinaya.

... Respondents/Petitioners

Prayer:- Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C., to call for the entire records relating to the order in F.C.MC.No.44 of 2016 dated 04.09.2017 passed by the Hon'ble Family Court, Dharmapuri and set aside the same as illegal and allow the above Criminal Revision Petition.

For Petitioner : Mr.S.Malaikani

For Respondents : Mr.R.Arun Dattan

सत्यमेव जयते
O R D E R

This Criminal Revision Case has been filed by the petitioner under Section 397 r/w 401 Cr.P.C., to call for the entire records relating to the order in F.C.MC.No.44 of 2016 dated 04.09.2017 passed by the Hon'ble Family Court, Dharmapuri and set aside the same as illegal and allow the above Criminal Revision Petition.

2.The Revision Petitioner and the 1st respondent are the husband and wife. The 1st respondent filed a petition before the Family Court, Dharmapuri in F.C.M.C.No.44 of 2016 for maintenance under Section 125 of Cr.P.C. The Family Court after enquiry passed an award of maintenance at the rate of

Rs.10,000/- per month to the 1st respondent /wife and Rs.5,000/- to the 2nd respondent /minor son. Aggrieved by the said order, the Revision petitioner has preferred this Revision.

3. According to the Revision Petitioner, he is an B.E.(EEE) graduate. He is unemployed and he is not having any means to maintain his wife and his minor son. He is not going to any job and earning money. Since, the revision petitioner does not have any means to maintain the respondents, the order passed by the learned Magistrate is highly exorbitant. Therefore, he has filed the present revision to set aside the order passed by the Family Court, Dharmapuri.

4. The learned counsel appearing for the respondents would submit that the revision petitioner is working in Hundai Company. Even during the marriage, he has stated that he was working in Hundai Company and he has subsequently admitted the same in his cross examination also. The Revision petitioner has also purchased the motor bike. Hence, it is clear that he is having sufficient means to maintain his wife and minor son. Therefore, the Family Court has rightly allowed the petition filed by the 1st respondent and directed the revision petitioner to pay a sum of Rs.10,000/- to his wife and Rs.5,000/- to his minor son. Hence, the award passed by the learned Family Court Judge warrants no interference. Accordingly, prays for dismissal of the Revision.

5. Heard both sides. Perused the records.

6. The revision petitioner and the 1st respondent are the husband and wife, the 2nd respondent is their minor son. The relationship of the parties is not in dispute. The paternity of the minor son is also not in dispute. The revision petitioner is the B.E.(EEE) graduate which is also not in dispute. At the time of the marriage, the petitioner was working in the Hundai Company has also been admitted by the petitioner. The petitioner has subsequently stated that he has lost his job and now he is without job and depending his parents for his livelihood. The petitioner has also stated that he has no sufficient means to maintain his wife and minor son and the 1st respondent i.e. his wife is also equally graduated and she is also an able person to maintain herself and the minor son. The petitioner has not proved that the 1st respondent is having sufficient means to maintain herself and her minor son and he has also not proved that the 1st respondent is employed and having means to maintain herself.

7. The learned Family Court Judge after considering the fact that the revision petitioner is the Engineering Graduate and

working in Hundai Company and also having 11 years of experience in that field and he is also possessing other house hold articles and recently purchased a Verana Higher End car bearing No.TN59BJ 6564 and Royal Enfield Motor Cycle and the petitioner has also admitted that he has purchased the motor bike. Which shows he has got sufficient means to purchase a luxury motor bike, and definitely he is having means to maintain his wife and minor son. Since he has neglected to maintain his wife and minor son, they have filed a petition before the Family Court under Section 125 of Cr.P.C. for maintenance.

8.The learned Family Court Judge after considering the facts and circumstances of the case and also discussed elaborately the materials placed before the Court, found that the revision petitioner is having sufficient means and he has voluntarily neglected to maintain his wife and his minor son and the 1st respondent / wife is unable to maintain herself and her minor son, rightly appreciated all the facts and awarded a maintenance of Rs.10,000/- to the 1st respondent and Rs.5,000/- to the minor son. Therefore, this Court does not find any perversity in the order passed by the Family Court and there is no merit in this Revision, hence the revision is liable to be dismissed.

9.Accordingly, this Criminal Revision Case stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ebsi/kas

To

The Judge,
Family Court,
Dharmapuri.

+1cc to Mr.S.Malaikani, Advocate sr.16696
+1cc to Mr.R.Arun Dattan, Advocate sr.16698

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nr 05/07/2019