

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.1143 of 2018 and
CrI.M.P.No.13308 of 2018

K.Ravi Prakash

...Petitioner

-Vs-

K.Krishnaveni

...Respondent

Criminal Revision case filed under Section 397 read with Section 401 of Cr.P.C. to call for records in M.C.No.118 of 2014, dated 23.04.2018 on the file of the learned Additional Principal Judge, Additional Family Court, Coimbatore, and set aside the same.

For Petitioner : Mr.K.Balasubramaniam

For Respondent : Mr.A.R.L.Sundaresan,
Senior Counsel for
Ms.A.L.Gandhimathi

O R D E R

This criminal revision has been filed against the order dated 23.04.2018 in M.C.No.118 of 2014 made by the learned Additional Principal Judge, Additional Family Court, Coimbatore.

2 The revision petitioner is son and respondent is mother. The respondent has filed a petition under Section 125 of Cr.P.C seeking maintenance, which was taken on file in M.C.No.118 of 2014 by the learned Additional Principal Judge, Additional Family Court, Coimbatore. After hearing both the parties, the learned Additional Principal Judge, by order dated 23.04.2018, awarded maintenance at Rs.20,000/- p.m. to the respondent, against which, the petitioner is before this Court.

2 The facts leading to file this revision is as follows:
The respondent's husband one deceased Kandhasamy was

married to elder sister of the respondent. Thereafter, to have a male child, the deceased Kandhasamy was married to the respondent. During the lifetime of Kandhasamy, he acquired many properties, and given some of the properties to his son i.e. the petitioner herein and some properties to the respondent. Civil dispute is also pending between the parties pertaining to some properties. The respondent filed petition seeking maintenance, since the petitioner being an only son and despite having sufficient means to maintain his mother, has neglected the mother i.e. the respondent. Maintenance was awarded at Rs.20,000/- p.m. to the respondent, against the same, the son is before this Court.

3 Learned counsel for the petitioner would submit that the her father deceased Kandhasamy acquired properties during his lifetime and some of the properties were transferred to the respondent and some properties were given to petitioner. The respondent is receiving income of Rs.35,000/- p.m. towards rent for the properties given to her and is having own house, despite, the respondent with an intention to harass the petitioner, has filed petition seeking maintenance. Further, the female children of the respondent, who were also well settled by the deceased father of the petitioner, are also helping financially. The Family Court failed to consider the above facts and erroneously ordered maintenance, which is liable to be set aside.

4 According to learned counsel for the respondent, it is an admitted fact that the respondent is also having some properties and getting money from the same, but that is not sufficient to maintain herself and to meet out her medical expenses. The petitioner having sufficient means to maintain the respondent, has neglected her. The petitioner is having many properties, from which he is getting more than Rs.3.5 lakhs. The Family Court, after appreciating all the evidences rightly, has awarded maintenance, which does not call for any interference.

5 Heard the learned counsel appearing on either side and perused the materials available on record.

6 It is seen that there is civil dispute between the parties, who is mother and son. Admittedly, the respondent is also having some properties and getting income from the same. Proceedings under Section 125 of Cr.P.C can be initiated by the legal dependant, one who have no means to maintain themselves. In this case it is admitted by the respondent that she is having some properties in her name and getting income from the same. This Court is of the view that the parties are fighting to get

equal status on par with others. Therefore the order passed by the Family Court awarding maintenance at Rs.20,000/- p.m. to the respondent for the reason that on par with the standard of living of the respondent during the life time of her husband, is not reasonable and could not be granted in the proceeding under Section 125 of Cr.P.C. Therefore, this Court is inclined to set aside the order impugned in this criminal revision.

7 Accordingly, the order of maintenance dated 23.04.2018 in M.C.No.118 of 2014 made by the Additional Family Court, Coimbatore, is hereby set aside and the revision is allowed. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To
The Additional Principal Judge,
Additional Family Court, Coimbatore.

Copy to: The Section Officer,
Crl Section, High Court,
Madras.

+1cc to Ms.A.L.Gandhimathi, Advocate SR.33715

+1cc to Mr.K.Balasubramaniam, Advocate SR.33600

Crl.R.C.No.1143 of 2018 and
Crl.M.P.No.13308 of 2018

ASK(CO)
CB(28/11/2019)
CB(31/01/2020)

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