



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 18.09.2019

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. R.C. (MD) NO. 395 OF 2019

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... Petitioner/Petitioner

- Vs -

Periyaiah

... Respondent/Respondent

Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure against the order dated 08.02.2018 made in M.C. No. 13/2017 on the file of the Family Court Judge, Sivagangai, with regard to payment of quantum of maintenance amount awarded to the petitioner and enhance the same and pass orders as this Court may deem fit and proper.

For Petitioner : Mr. B.Santhanam Rajeshkumar

For Respondents : Mr. K.P.Ramesh

ORDER

The present revision petition has been filed by the petitioner seeking enhancement of monthly maintenance from over and above the maintenance ordered by the Family Court.

2. It is the case of the petitioner that her marriage with the respondent was solemnized on 24.6.1993 and out of the said wedlock, though they begot two children, but they left their mortal coils. It is the case of the petitioner that due to the cruelty meted out to her and also for other matrimonial reasons, the petitioner was driven out of her matrimonial home and forced to live with her parents, who by themselves are indigent. It is the case of the petitioner that she is not employed and in order to meet out her living expenses, she filed the maintenance case before the Family Court. It is also the stand of the petitioner that the respondent was gainfully employed in Electricity Board and earning more than Rs.45,000/- per month and since she has no source of income, sought maintenance from the respondent.

3. The respondent, while admitting the marriage, however denied the other allegations and averred that only in order to extract money from him the present petition has been filed and that the petitioner is having income through rents and agricultural income and that he is earning only a paltry sum of Rs.18,000/- and not any



exorbitant amount as claimed by the petitioner and resisted the maintenance case.

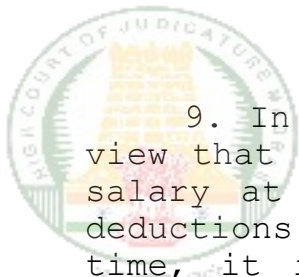
4. Before the trial court, the petitioner examined herself as P.W.1 and one other witness as P.W.2 and marked Exs.P-1 to P-4. The respondent examined himself as R.W.1 and marked Ex.R-1. The trial court, taking into consideration the oral and documentary evidence placed before it, while accepted the case of the petitioner, however ordered maintenance only at Rs.3,000/- per month. Aggrieved by the said maintenance order, which is stated to be on the lower side, the present petition has been filed by the petitioner/wife.

5. Learned counsel appearing for the petitioner submitted that though evidence has been placed before the trial court to prove the monthly income of the respondent, which is to the tune of Rs.26,000/-, however, the trial court has awarded only Rs.3,000/- as maintenance, that too considering the fact that the respondent has not proved that the petitioner was having other source of income. Hence, prayer is made for enhancement of maintenance.

6. Per contra, learned counsel appearing for the respondent submitted that the trial court, taking into consideration the oral and documentary evidence, more specifically the salary slip of the respondent placed before it, has come to the conclusion that the take home pay of the respondent is only to the tune of around Rs.11,000/- and, therefore, has rightly ordered an amount of Rs.3,000/- towards maintenance and, therefore, no interference is called for with the order passed by the court below.

7. This Court has bestowed its best attention to the submissions advanced on either side and also perused the materials available on record, as also the order passed by the Court below.

8. The factual aspects in the case are not in dispute and, therefore, this Court is not dwelling into the same. The only issue raised before this Court relates to enhancement of maintenance. A perusal of the order of the court below reveals that the trial Court, taking into consideration Ex.R-1, the salary slip of the respondent, has fixed the maintenance at Rs.3,000/-. The trial court has found that the gross salary of the respondent as per the salary slip was Rs.25,838/- and the net salary of the respondent was Rs.10,807/- and, therefore, ordered a sum of Rs.3,000/- as maintenance. However, it is to be borne in mind that whatever amount that goes towards deduction from the gross salary of the respondent accrues to his benefit at a later point of time in the form of retirement benefits and, therefore, it cannot be said that the salary is a meagre amount. As held by the Court below, the deductions from the gross salary is always an asset to the employee, which should also be borne in mind while fixing maintenance.



9. In the above circumstances, this Court is of the considered view that the maintenance fixed at Rs.3,000/- per month keeping the salary at Rs.10,807/- is on the lower side. When the statutory deductions enure to the benefit of the employee at a later point of time, it is equally obligatory on the part of the respondent to maintain his wife in a better manner at the present point of time. Therefore, this Court is of the considered view that maintenance at Rs.4,500/- per month would be just and equitable in the facts and circumstances of the case.

10. Accordingly, this revision petition is allowed enhancing the maintenance ordered from Rs.3,000/- to Rs.4,500/- per month, which enhancement shall be from the date of filing of the revision case. The respondent is directed to pay the arrears of maintenance as quantified by the Court below as also the enhanced maintenance as quantified by this Court, as above, within a period of four weeks from the date of receipt of a copy of this order and continue to pay the said amount every month without fail. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

The Family Court
Sivagangai.

+1 CC to Mr.B.SANTHANAM RAJESH, Advocate (SR-87779[F] dated 19/09/2019)

+2 CC to Mr.K.P.RAMESH, Advocate (SR-88110[F] dated 20/09/2019)

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GLN

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