



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.12.2019

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

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Crl.R.C(MD)No.57 of 2019

and

Crl.MP(MD)No.1390 of 2019

Anton Victoriya

: Petitioner/Respondent

Vs.

1.A.Ganeshwary @ Blessy

2.Minor Sacriash

3.Minor Simson Salom

(R2 and R3 represented by
their mother/natural guardian
the 1st respondent herein)

: Respondents/Petitioners

Prayer: Criminal Revision has been filed under section 397 r/w 401 of Criminal Procedure Code, against the order, dated 03.10.2018 passed in MC No.21 of 2017 on the file of the Chief Judicial Magistrate, Tuticorin.

For Petitioner

: Mr.K.Prabhu

For Respondents

: Mr.V.Angusamy

O R D E R

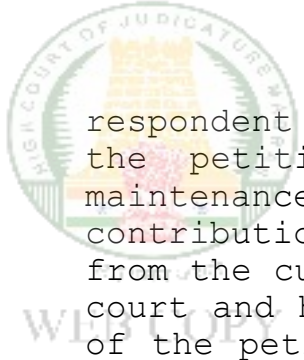
This criminal revision is directed against the order, dated 03.10.2018 passed in MC No.21 of 2017 by the Chief Judicial Magistrate, Tuticorin.

2.The marriage between the petitioner and the 1st respondent solemnized on 08.05.2008 and out of the wedlock, the 2nd and 3rd respondents were born and the petitioner is a fresh fish merchant and the 1st respondent is a Government Teacher and due to matrimonial tiff, the 1st respondent filed MC No.21 of 2017 on the file of Chief Judicial Magistrate, Tuticorin seeking a monthly maintenance of Rs.30,000/- for herself and her two minor children. The learned Judge allowed the petition partly to the extent of the prayer with regard to two minor children of Rs.10,000/- each per month from the date of petition till they attain majority. Aggrieved by the said order, the petitioner is before this court.

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

<https://hcservices.ecourts.gov.in/hcservices/>

4.The main contention raised on the side of the petitioner is that there are ample documentary evidence to show that the 1st



respondent is the earning member, who earns several times more than the petitioner and when it is pointed out that the monthly maintenance requirement for each child is Rs.10,000/-, the contribution to be made by the mother having snatched the children from the custody and the father has not been considered by the trial court and hence, the entire burden has been shifted on the shoulder of the petitioner, in the back ground of the fact that his monthly income is several times lesser than that of the 1st respondent, the petitioner never neglected the minor children and only in order to take care of their welfare, the petitioner even compromised with the 1st respondent on many occasions and brought her back to the matrimonial home, resulting into dismissal of several petitions filed for restitution of conjugal rights as not pressed because of reunion of the spouses as well as dismissal of domestic violence original petition filed by the 1st respondent herein and several efforts were taken by the petitioner to have reunion with the 1st respondent, but it was not possible because of her hostile attitude and it is pertinent to point out that the 1st respondent has taken away the minor children from the custody of the petitioner and the petitioner has never neglected the respondents 2 and 3 and the monthly maintenance ordered to the respondents 2 ad 3 are excessive and prays that the revision petition has to be allowed.

5. On the other hand, it is argued on the side of the respondents that the petitioner subjected her to cruelty and her husband get her salary and spent it lavishly and frequently her husband demanded money to stall his business and her husband never maintained the children and she only obtained loan from the bank and she only repaying the amount to the bank and hence, it is very difficult to maintain her and her children and the amount ordered towards maintenance was not excessive and the criminal revision may be dismissed.

6. It is admitted on the side of the respondents that the first respondent is working as a teacher. Further, the first respondent admitted that she obtained loan from the bank and she is repaying the amount to the bank and the children are in her custody. No document was filed on the side of the petitioner to prove that he maintained his children. Hence, the argument put forth on the side of the respondents stating that the first respondent has no sufficient means to maintain her children is acceptable. It is the bounden duty of the father to maintain his children. On perusal of the order passed by the court below, it reveals that the maintenance amount awarded by the trial was excessive. Hence, this court is of the view that the maintenance amount ordered by the court below is to be reduced to Rs.6,000/-per month for each children instead of Rs.10,000/-.

7. In the result, this criminal revision is **partly allowed**. The monthly maintenance awarded by the trial court is reduced to Rs.6,000/- per month for each children. The petitioner is directed to pay the modified maintenance amount to the children from the date



of filing of the maintenance petition till they attained majority. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

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Sub Assistant Registrar(CS)

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To,

The Chief Judicial Magistrate,
Tuticorin.

+1 CC to MR.K.PRABHU, Advocate (SR-105893[F] dated 19/12/2019)

+1 CC to MR.V.ANGUSAMY, Advocate (SR-105932[F] dated 19/12/2019)

Order made in
Crl.R.C(MD)No.57 of 2019
19.12.2019

VB(23.03.2020) 3P 4C