



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.(MD) No.11420 of 2014
and
M.P.(MD) .No.1 of 2014

A.Elangovan : Petitioner/Petitioner/
Respondent
Versus

1.Sumathi
2.Vignesh : Respondents/Respondents/
Petitioners

Prayer: Petition is filed under Section 482 of the Criminal Procedure Code praying to set aside the order dated 06.07.2013 made in Crl.R.P.No.14 of 2013, on the file of the III Additional District Sessions Judge, Trichy, confirming the order partly dated 27.12.2012 made in M.C.no.111 of 2009, on the file of the learned Chief Judicial Magistrate, Trichy.

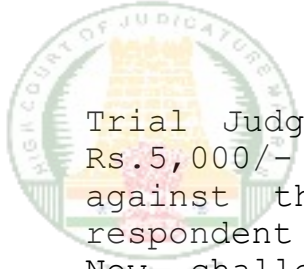
For Petitioner : Mr.B.Jameel Arasu

For Respondents : No Appearance

O R D E R

This petition has been filed challenging the order made in Crl.R.P.No.14 of 2013, on the file of the III Additional District Sessions Judge, Trichy.

2.The first respondent is the wife of the petitioner and the second respondent is the son of the petitioner. Earlier, the first respondent and their two minor children filed a petition under Section 125, of the Code of Criminal Procedure seeking maintenance in M.C.No.111 of 2009, on the file of the learned Chief Judicial Magistrate, Tiruchirappalli. The trial Court granted maintenance for a sum of Rs.2,000/- to the first respondent, and Rs.3,000/- to the second respondent per month, and dismissed the petition against her second child on the ground that she is the adopted daughter, the first respondent did not produce any evidence to prove the adoption, hence, she is not entitled to get the maintenance. Challenging the same, the petitioner filed a revision in Crl.R.C.No.14 of 2013, before the III Additional District Judge, Tiruchirappalli. The learned Judge modified the order passed by the



Trial Judge and enhanced the amount of maintenance as a sum of Rs.5,000/- to the first respondent and dismissed the petition as against the second respondent on the ground that the second respondent became major, and he is not entitled for maintenance. Now, challenging the above said order, the present petition has been filed.

3. I have heard the learned counsel appearing for the petitioner and perused the records carefully.

4. Originally there are three persons viz., the petitioner's wife and his children filed the petition for maintenance. The trial Court considering the fact that the first respondent is legally wedded wife of the petitioner, and the second petitioner is born out of their wedlock, and the third petitioner is the adopted daughter, granted maintenance of a sum of Rs.2,000/- to the first respondent and a sum of Rs.3,000/- to the second respondent, and dismissed the petition in respect of the third petitioner. Challenging the above said order, the respondents filed a revision petition. The learned Judge after considering all these aspects allowed the petition in respect of the first respondent alone, enhancing the maintenance amount for a sum of Rs.5,000/- per month, and dismissed the petition in respect of the second respondent on the ground that he is aged about twenty years and he is a major and he is not entitled for maintenance.

5. Now, it is contended that the first respondent / wife is living in adultery and she is not entitled for maintenance. The same plea was raised in both the Courts below. The Courts below after considering the materials available on record came to the conclusion that there is no evidence to prove the fact that the first respondent is living in adultery and, granted maintenance. It is a concurrent finding on facts, and I find no reason to interfere with the above said finding. Sofar as the quantum of maintenance is concerned, it is an admitted fact that the petitioner is working as a Driver in the Tamil Nadu State Transport Corporation and he is also getting salary of Rs.19,000/- per month, and he has the means to pay; the Courts below considering all the circumstances awarded the sum of Rs.5,000/- to the first respondent.

6. Considering the above facts, I do not find any illegality or irregularity in the order passed by the revision Court. This Criminal Original Petition stands dismissed accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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To

1.The III Additional District Sessions Judge, Trichy,

2.The Chief Judicial Magistrate, Trichy

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.B.JAMEEL ARASU, Advocate (SR-80761[F] dated 08/08/2019

Order made in
Crl.O.P.(MD) No.11420 of 2014
Dated: 07.08.2019

Tsg

JMN(30.08.2019) 3P : 5C