



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD).No.15062 of 2017

and

Crl.M.P.(MD) Nos.10031 of 2017 & 3233 of 2018

Sebastian

... Petitioner

Vs.

1) Nirmala

2) Minor Nicksonraja

Rep. through his mother and Natural
Guardian R1

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records relating to the order dated 30.08.2017 in Crl.Revision No.7 of 2017 on the file of the learned Principal District Judge, Ramanathapuram partly modifying the order dated 20.08.2015 in M.C.No.18 of 2011 on the file of the learned Judicial Magistrate, Paramakudi and set aside the same.

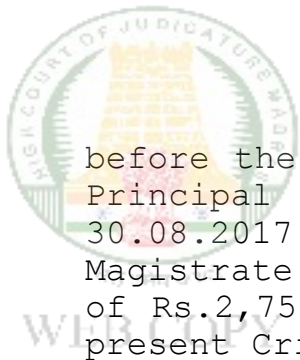
For Petitioner : Mr.P.Thilakkumar

For Respondents : Mr.J.Barathan

O R D E R

This Criminal Original Petition has been filed challenging the order passed by the Court below, fixing the maintenance amount payable every month by the petitioner to the respondents at the rate of Rs.2,750/- each, from the date of filing of the M.C. petition.

2. The respondents filed the maintenance case before the Judicial Magistrate, Paramakudi seeking for monthly maintenance from the petitioner. The learned Judicial Magistrate, Paramakudi by an order dated 20.08.2015, was pleased to fix the monthly maintenance at the rate of Rs.3,000/- to each of the respondents from the date of filing of the petition. This was challenged by the petitioner



before the Principal District Court, Ramanathapuram and the learned Principal District Judge, Ramanathapuram, by an order dated 30.08.2017 was pleased to modify the order passed by the learned Magistrate and had reduced the maintenance amount payable to a sum of Rs.2,750/- each to the respondents. Aggrieved by the same, the present Criminal Original Petition has been filed before this Court.

3. The learned counsel appearing for the petitioner submitted that the first respondent is working and earning salary and she is comfortably placed and this factor has not been taken into consideration by both the Courts below. Learned counsel submitted that the first respondent is also supported by her parents and she is not dependent on the petitioner for her monthly maintenance.

4. Learned counsel for the petitioner further submitted that the petitioner does not have any objection in paying the monthly maintenance of the second respondent, who is his son. The learned counsel submitted that the second respondent is going to attain majority and till he attains majority, the petitioner will pay the monthly maintenance as fixed by the revision court.

5. The learned counsel appearing on behalf of the respondents submitted that the petitioner has never supported the family right through. The entire education expenses of the second respondent was borne by the first respondent and the expenses towards his college education was met by taking educational loan from the Bank. Learned counsel further submitted that the petitioner has paid the maintenance at the rate of Rs.1,500/- to each of the respondents, pursuant to the interim order passed by this Court.

6. The learned counsel appearing on behalf of the respondents concluded his submissions by stating that there are absolutely no grounds to interfere with the orders passed by the Court below.

7. This Court has carefully considered the submissions made by the learned counsel on either side and the materials available on record.

8. This Court in exercise of its jurisdiction under Section 482 of Cr.P.C. cannot treat this petition as a second revision, since the same is barred under 397(2) of Cr.P.C. This Court in exercise of its jurisdiction under 482 of Cr.p.C. cannot re-appreciate the facts and unless and otherwise the case falls within the three limbs of Section 482, this Court will not be in a position to interfere with the order passed by the Court below.

9. On a careful reading and consideration of the order passed by the Court below, this Court does not find any perversity and the Court below has fixed the maintenance amount based on the evidence



collected during the course of the trial. This Court does not find any grounds to interfere with the same. The petitioner shall pay the monthly maintenance as fixed by the revision court to the second respondent till he attains majority. Insofar as the first respondent is concerned, the petitioner shall continue to pay the maintenance as fixed by the revision Court. The petitioner is also further directed to pay the arrears of maintenance at the rate of Rs.2,750/- to the respondents from the date of filing of the M.C. petition. The arrears shall be deposited before the Court below after adjusting the amount that has been already paid, within a period of six(06) weeks from the date of receipt of a copy of this order.

10. In the result, this Court does not find any merits to interfere with the order passed by the Court below and accordingly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

Sts

To

- 1) The Principal District Judge,
Ramanathapuram.
- 2) The Judicial Magistrate,
Paramakudi.
- 3) The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.T.R. JEYAPALAM, Advocate(SR-90119[F]dated 27/09/2019)

Order made in
Crl.O.P. (MD) .No.15062 of 2017
25.09.2019

VB(04.11.2019) 3P 5C