

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

CRL.R.C.NO.1067 OF 2018

AND

CRL.M.P.NO.12444 OF 2018

V.Prabhu @ Sivakumar

... Petitioner

Vs.

1.M.Malini

2.Minor Lakshana

(rep.by natural guardian and
mother M.Malini, the first
respondent herein).

... Respondents

Prayer:-

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the order passed in M.C.No.4 of 2017 dated 20.04.2018 on the file of the Judicial Magistrate Court, Paramathi Taluk, Namakkal District.

For Petitioner : Mr.S.Senthil

For Respondents: Mr.B.Dhiyaneswaran

O R D E R

The petitioner and the first respondent herein are the husband and wife. Due to a matrimonial dispute, they are living separately. While so, the petitioner filed a petition in HMOP No.54 of 2014 praying for a decree of divorce and the same was allowed vide order dated 29.08.2016 by the Sub-Court, Namakkal. Thereafter, the first respondent filed a maintenance case in M.C.No.4 of 2017 before the Judicial Magistrate, Paramathi. Considering the materials and evidence available on record, the Trial Court directed the petitioner herein to pay a monthly maintenance of Rs.4,000/- to the first respondent and a sum of Rs.5,000/- to the second respondent, totalling to Rs.9,000/-, from the date of petition for maintenance. Challenging the same,

the present Criminal Revision Case has been filed by the petitioner.

2.It is averred in the affidavit filed in support of this revision that the the Trial Court has erred in coming to the conclusion that the respondents are starving for lack of food, clothes and medical expenses in the absence of any oral or documentary evidence and that the Trial Court ought to have taken note of the evidence of P.W.1, the first respondent herein, wherein she herself has stated that she is residing along with her daughter at the residence of the petitioner and that she is in possession of the original RC books of the two mini vans owned by the petitioner.

3.When this revision was taken up by this Court on 07.02.2020, this Court passed an order directing the petitioner to pay 50% of Rs.2,47,000/- being the total arrears of maintenance. But even today, the said order has not been complied with.

4.Today, when this revision was taken up, the learned counsel for the petitioner fairly submitted that due to his earnest efforts and repeated advices to the petitioner, the petitioner is not complying with the order passed by this Court to deposit the maintenance amount of 50%. Considering the earnings made by the petitioner, the Trial Court has ordered a sum of Rs.4,000/- and Rs.5,000/- as maintenance amounts to be given to the first and second respondents respectively. Further, there were no witnesses examined or documents marked on the side of the petitioner before the Trial Court to prove the contentions raised by the petitioner that the first respondent was not serving as a dutiful wife to the petitioner.

5.In view of the above stated circumstances, the impugned order passed by the Trial Court is confirmed and the Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed. It is open to the first respondent to proceed in accordance with law, to recover the maintenance amount from the petitioner.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Judicial Magistrate, Paramathi,
Namakkal District.
2. The Chief Judicial Magistrate,
Namakkal District. (For information)
3. The Public Prosecutor,
Madras High Court.

+1cc to Mr.S.Senthil, Advocate, S.R.No.17883

+1cc to Mr.B.Dhiyaneswaran, Advocate, S.R.No.17556

Crl.R.C.No.1067 of 2018
and
Crl.M.P.No.12444 of 2018

NRL (CO)
CS/22/05/2020



WEB COPY