

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.R.C.No.534 of 2018

L.Venkatesan

.. Petitioner

Vs

V.Dhanuja
rep.by its mother and natural guardian
Kaminikousalya

... Respondent

Prayer:- Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. praying to call for the records of the lower Court M.P.No.506 of 2013 in M.C.No.358 of 2002 on the file of learned V Additional Family Court Judge at Chennai to satisfy itself as to the propriety of the impugned order dated 02.03.2018 and set aside the same.

For Petitioner : Mr.D.Saikumaran

ORDER

The petitioner is the husband and the mother of the respondent is the wife. Out of the said wedlock, they were blessed with a female child. Due to a matrimonial dispute between the parties, they are living separately. While the petitioner filed FCOP.No.10 of 2001 seeking dissolution of marriage, the respondent and her mother filed MC.No.358 of 2002 seeking monthly maintenance of Rs.1,500/- each before the Principal Family Court, Chennai. By a common order dated 23.07.2004, the Family Court allowed the petition filed by the petitioner thereby dissolving the marriage solemnized between the parties and partly allowed the maintenance case thereby awarding the monthly maintenance of Rs.1,500/- to the respondent alone. Seeking enhancement of the monthly maintenance from Rs.1,500/- to Rs.9,000/-, the respondent filed MP.No.506 of 2013 in MC.No.358 of 2002 before the V Additional Family Court, Chennai. On consideration of the materials available on record,

the Family Court ordered the petitioner to pay a sum of Rs.6,000/- towards monthly maintenance to the respondent. Aggrieved over the same, the petitioner has preferred this Criminal Revision Case.

2. The learned counsel for petitioner has submitted that the Court below without appreciating any material in connection with the avocation and salary of the petitioner, mechanically passed the impugned order directing the petitioner to pay a monthly maintenance amount of Rs.6,000/- to the respondent. It is also submitted that the petitioner is drawing a net salary of Rs.22,000/- per month and is living with his aged mother, 2nd wife and daughter and widow sister and her children, whereas the respondent is under the care and custody of her mother, who has sufficient means to maintain the respondent. Stating so, the learned counsel sought to set aside the order impugned herein.

3. Heard the learned counsel for the petitioner and perused the materials placed before this Court. The respondent has not been served till date. Since no order prejudicial to the interest of the respondent is going to be passed, this Court is inclined to dispose of this matter on merits.

4. On 25.04.2018, this Court has granted an order of interim stay on condition that the petitioner shall deposit 50% of the arrears of maintenance on or before 18.06.2018 and further continue to pay the monthly maintenance at the rate of Rs.4,000/- per month on or before 5th of every succeeding English Calender month. On 23.07.2018, when the matter was taken up for consideration, the learned counsel for the petitioner submitted that the petitioner has deposited a sum of Rs.1,20,000/- before the trial Court and sought time to deposit the remaining amount. Accordingly, three weeks time was granted to fully comply with the order of this Court. However, the petitioner has not deposited the entire arrears of maintenance amount.

5. The object of the provisions of Section 125 Cr.P.C., is to provide for a social justice falling within the swim of Article 15(3) and 39 of the Constitution of India, which have been enacted to protect the weaker section of the society like women and children. It is in the form of secular safeguard irrespective of personal law of the parties. The object is to compel a man to perform moral obligations towards the society in respect of maintaining his wife, children and old parents so that they may not face destitution and become the liability of the society or may be forced to adopt a life vagrancy, immorality and crime for their subsistence or go astray (vide: Begum Subanu @ Saira Banu v. A.M.Abdul Gafoor, AIR 1987 SC 1103).

6. Such being the legal position, this Court is of the view that the defiance on the part of the petitioner as regards the non-compliance of the order of this Court, cannot be countenanced. Further, taking note of the facts and circumstances of the case, the award of Rs.6,000/- granted to the respondent as monthly maintenance seems to be very reasonable and hence, the same does not call for any interference by this Court.

7. In the result, this Criminal Revision Case stands dismissed, leaving it open to the respondent to recover the monthly maintenance including arrears, in the manner known to law. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The V Additional Family Court,
Chennai.

Cr1.R.C.No.534 of 2018

RGN (CO)
GS (30/05/2020)

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