

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

Crl.RC.No.334 of 2014

Kumeravelu

... Petitioner

Vs.

1.Muthukumari

2.Minor Arunisha

3.Minor Layashri

... Respondents

(Respondent Nos.2 & 3 are Minors
they are being represented by
the 1st respondent as their
Mother and Natural Guardian)

Prayer: Criminal Revision has been filed under sections 397 & 401 Crl.P.C. to set aside the order passed in Crl.MP.7299 of 2013 in M.C.No.18/2013 dated 05.02.2014 on the file of the Judicial Magistrate, Thiruthuaripondi.

For Petitioner : Mr.Vimal B.Crimson

For Respondents: Mr.K.M.Subramaniam

O R D E R

The Criminal Revision petition is directed against the order passed in Crl.MP.No.7299 of 2013 in M.C.No.18 of 2013 dated 05.02.2014 on the file of the Judicial Magistrate Court, Thiruthuraipoondi.

2.M.C.No.18 of 2013 has been laid by the respondents against the revision petitioner claiming maintenance.

3.In the main case, the respondents had sought maintenance from the revision petitioner claiming a sum of Rs.15,000/- as maintenance for the first respondent and a sum of Rs.7,500/- each for the respondents 2 & 3, in all, they had claimed a total sum of Rs.30,000/- per month from the revision petitioner as maintenance.

4. Pending the main case, they had preferred Crl.M.P. No.7299 of 2013 seeking interim maintenance till the disposal of the main case.

5. Briefly stated, according to the respondents, the first respondent is the wife and the respondents 2 & 3 are the children born to the first respondent and the revision petitioner. The revision petitioner developed illicit relationship with a lady and on that account, ill-treated and harassed the respondents continuously and had driven them from the matrimonial home and the respondents are presently residing in the house of the parents of the first respondent and the revision petitioner is employed as a police constable and earning more than a sum of Rs.25,000/- per month and also engaged in agricultural, real estate and money lending business and in all, earning a sum of Rs.1,00,000/- per month and apprehending that the respondents are obstructing his lavish and prodigal life and with a view to wreak vengeance on them, the revision petitioner has failed to provide maintenance to the respondents and the respondents 2 & 3 are studying in school and therefore, in toto, they have claimed interim maintenance of Rs.15,000/- per month from the revision petitioner pending disposal of the main case.

6. The revision petitioner has resisted the abovesaid claim for maintenance by contending that after marriage with the first respondent, the first respondent started demanding partition of the revision petitioner's share in the house property and continuously harassed him on that score and though separate residence was set up at Mylapore, Chennai, the first respondent without any basis or foundation had developed suspicion over the conduct of the revision petitioner and admitted that the respondents 2 & 3 are born to him and the first respondent and according to the revision petitioner, the first respondent does not give respect for the elders of the family members and used to pick up quarrel with them and leave the matrimonial home and stay at her parents house without any rhyme or reason and it is the revision petitioner who used to call upon them to live in the matrimonial home and also put forth that at one stage, the first respondent refused to come and live with the revision petitioner and in that connection, the revision petitioner had also issued a legal notice on 19.06.2013 calling upon the respondents to live with him and to the same, the respondents sent a reply containing false allegations and the revision petitioner has also laid a case on the file of the Sub Court, Mannarkudi for restitution of conjugal rights against the first respondent and despite the abovesaid position, the first respondent is adamant in not living with the revision petitioner and admitted that he is employed as a Police constable and

according to him, he is earning only a paltry sum after deductions and denied that he is earning a sum of Rs.1,00,000/- per month as alleged in the petition and thereby, disputed the entitlement of the respondents to claim interim maintenance and prayed for the dismissal of the petition.

7.The trial Court on a consideration of the case put forth by the respective parties and the submissions made, deemed it fit to direct the revision petitioner to pay a sum of Rs.3,000/- each to the respondents, in all, a sum of Rs.9,000/- per month till the disposal of the main petition. Challenging the same, the revision petition has been preferred by the revision petitioner.

8.The revision petitioner has not disputed the relationship between him and the respondents. Thus, it is found that the first respondent is the wife of the revision petitioner and the respondents 2 & 3 are the daughters of the revision petitioner and the first respondent. The revision petitioner has not disputed that he is employed as a police constable. However, according to him, he is earning a paltry sum after deductions and disputed the claim of the respondents that he is earning Rs.1,00,000/- per month. However, as regards the actual salary to which he is entitled as a police constable, the revision petitioner has not placed any material with reference to the same. If really, the revision petitioner is only earning a paltry sum after deductions, at least to prove the same, he should have endeavoured to place necessary materials pointing to his version. However, the revision petitioner has failed to produce his salary certificate and the deductions made in his salary by the police department. Therefore, it is found that the revision petitioner has suppressed the actual salary received by him as a police constable despite available materials pointing to the same. No doubt the respondents have also failed to establish that the revision petitioner is earning a sum of Rs.1,00,000/- per month by doing agricultural operations, real estate and money lending business. Be that as it may, when the revision petitioner has admitted that the first respondent is his wife and the respondents 2 & 3 are his daughters, as rightly determined by the court below, the revision petitioner is bound to provide maintenance to them.

9.Now, according to the respondents, the revision petitioner has caused them ill treatment and harassment, drove them from the matrimonial home by developing illicit relationship with another lady and spending his income lavishly and squandering the amount extra vagantly without providing any maintenance to them. Now, according to the revision petitioner, it is only the first respondent along with the respondents 2 & 3 who had left

from the matrimonial home without any sufficient cause despite the notice calling upon them to come and stay with him and also put forth that he has instituted a petition against the first respondent for restitution of conjugal rights, the first respondent is not ready to reside with him and therefore, the respondents are not entitled to claim maintenance as well as interim maintenance.

10.However, the abovesaid factors should be determined only in the main case and not in the petition seeking for interim maintenance. The revision petitioner has not denied the status of the respondents and accordingly, when it is seen that the revision petitioner is bound to provide maintenance to the respondents as per law, in such view of the matter, the revision petitioner admittedly being employed as a police constable and when according to the respondents, the revision petitioner is earning a sum of Rs.25,000/- per month out of the abovesaid avocation and also earning other sums by engaging in other avocations, in such view of the matter, as rightly determined by the trial Court, considering the educational expenses and other needs that the respondents may require, in all, the trial Court is justified in granting the interim maintenance in a sum of Rs.3,000/- each, in all, a total sum of Rs.9,000/- and in such view of the matter, I am unable to accede to the contention of the petitioner's counsel that the quantum of interim maintenance fixed by the trial Court is on the higher side.

11.In the light of the abovesaid discussions, the impugned order does not merit any interference. In conclusion, the criminal revision petition is dismissed. Considering the fact that the main case in M.C.No.18 of 2013 is pending from 2013 onwards, the trial Court is directed to dispose of the main case as expeditiously as possible in accordance with law.

Sd/-

सत्यमेव जयते
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sms

To:

1.The Judicial Magistrate,
Thiruthuaripondi.

2.The Chief Judicial Magistrate,
Thiruvarur (For Information)

Cr1.RC.No.334 of 2014

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