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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2020

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.R.C.No.1006 of 2017

and

Crl.MP.No.9494 of 2017

G.Rajmohan

.. Petitioner/Respondent
/Respondent

Vs

1. Radha @ Yogasundari
2. Minor Navaneetha
Rep.by her next friend/Guardian
Mother Radha @ Yogasundari

.. Respondents/Petitioner
/Petitioner.

Prayer:- Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. praying to call for the records relating to the order dated 03.06.2017 made in C.R.P.No.25 of 2017 on the file of the learned Additional Sessions, Magalir Neethi Mandram (Fast Track Mahila Court), Erode modifying the order dated 28.04.2016 made in M.C.No.16 of 2014 on the file of the learned Judicial Magistrate, Bhavani and set aside the same.

For Petitioner : Mr.N.Manokaran
For Respondents : Mr.R.Prabakar

ORDER

The revision petitioner is the husband and the first respondent is the wife. They got married on 18.02.2008. Out of the said wedlock, they were blessed with a girl child viz., the second respondent. Due to a matrimonial dispute, they were separated. The petitioner has filed HMOP.No.14/2014 for restitution of conjugal rights. Pending the same, the respondents filed M.C.No.16/2014 before the learned Judicial Magistrate, Bhavani, seeking monthly maintenance of Rs.17,000/- in total. Considering the materials available on record, the Court below vide order dated 28.04.2016, directed the petitioner herein to pay a monthly maintenance of Rs.3,000/- only to the second respondent from the date of petition for maintenance till



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her marriage. Insofar as the first respondent is concerned, the maintenance case stood dismissed. Challenging the same, the respondents filed Crl.R.P.No.25/2017 before the learned Additional Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Erode. By order dated 03.06.2017, the Appellate Court allowed the said petition, directing the petitioner/husband to pay a sum of Rs.10,000/- towards maintenance to the first respondent and Rs.7,000/- to the second respondent till her majority or marriage, on or before 5th of every English calendar month and to pay a further sum of Rs.5,000/- to the first respondent towards interim maintenance till the disposal of the petition. Aggrieved over the same, the petitioner has filed the present Revision Case.

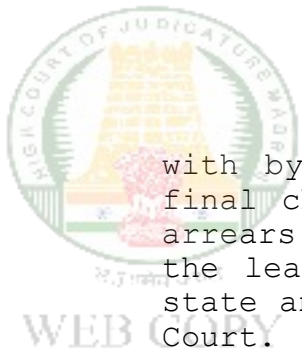
2. The learned counsel for the petitioner has submitted that in the absence of any proof with regard to the avocation and salary of the petitioner, the Appellate Court has mechanically passed the impugned order, directing the petitioner to pay the monthly maintenance of Rs.17,000/- to the respondents. He further stated that the first respondent voluntarily left the matrimonial home, whereas the petitioner filed a petition in HMOP.No.14/2014 seeking restitution of conjugal rights before the Sub-Court, Bhavani. It is also submitted that the first respondent/wife is earning Rs.30,000/- per month, by doing tailoring work, besides receiving Rs.20,000/- per month through house rent and she is also earning Rs.5 lakhs per year through agricultural income and hence, she is capable of maintaining herself and the second respondent as well. On the other hand, the petitioner is unemployed and has no means to fulfill his day-to-day requirements. Stating so, the learned counsel sought to set aside the order passed by the Appellate Court.

3. Per contra, the learned counsel for the respondents has submitted that the Appellate Court has considered the materials available on record and has awarded the monthly maintenance reasonably to the respondents and hence, the same does not call for any interference by this Court.

4. Heard both sides and perused the records.

5. This Court vide order dated 31.07.2017, while ordering notice to the respondents, has granted an order of interim stay on condition that the petitioner shall pay a sum of Rs.6,000/- towards monthly maintenance to both the respondents and also pay 50% of the arrears of maintenance at the rate of Rs.6,000/- per month to the respondents, within a period of four weeks.

6. On 05.02.2020, when the matter was taken up for consideration, the learned counsel for the respondents submitted that the interim order dated 31.07.2017 has not been complied



with by the petitioner. Hence, this Court, in order to give a final chance, has directed the petitioner to deposit the entire arrears of maintenance within a period of two weeks. Even today, the learned counsel for the petitioner is not in a position to state any reason for non-compliance of the interim order of this Court.

7. A perusal of the records would reveal that the trial Court has granted maintenance only to the second respondent at the first instance. Subsequently, the Appellate Court, by order dated 03.06.2017 passed in Crl.R.P.No.25 of 2017, which is impugned herein, has enhanced the monthly maintenance granted to the second respondent from Rs.3,000/- to Rs.7,000/- and further granted the monthly maintenance at 10,000/- to the first respondent as well, which in the opinion of this Court, seems to be just and very reasonable, in the given facts and circumstances of the case and having regard to the materials available on record and hence, the same warrants no interference.

8. In fine, this Criminal Revision is dismissed leaving it open to the respondents to take necessary steps against the petitioner for recovery of arrears of maintenance amount in the manner known to law. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(III)

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Sub Assistant Registrar

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To

1. The Additional Sessions Judge, Magalir Neethi Mandram,
(Fast Track Mahila Court), Erode.

2. The learned Judicial Magistrate, Bhavani.

Copy To

3. The Chief Judicial Magistrate, Erode.

4. The Section Officer, Criminal Section, High Court, Madras.

+1cc to Mr.R.Prabakaran, Advocate, S.R.No.14903

+1cc to Mr.N.Manokaran, Advocate, S.R.No.14949

Crl.R.C.No.1006 of 2017

BS (CO)

KKV/09/07/2020