

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.R.C.No.1127 of 2017

and

Crl.MP.No.10690 of 2017

C.Murugan

... Petitioner/Respondent

Vs

1.M.Kavitha

2.Swathy

3.Minor M.Deepak rep.by

1st respondent/mother

... Respondents/Petitioners

Prayer: Criminal Revision filed under Section 397 and 401 of the Code of Criminal Procedure, against the order dated 27.04.2017 passed by the III Additional Family Court at Chennai, in MC No.271 of 2014.

For Petitioner : No appearance

For Respondents : Mr.A.Mohandoss

ORDER

The order dated 27.04.2017 passed by the III Additional Family Court, Chennai, in MC No.271 of 2014, awarding the maintenance at Rs.5,000/- per month to the first respondent/wife and Rs.3,000/- each per month to the respondents 2 and 3/children and further awarding Rs.10,000/- per year towards educational expenses to the respondents 2 and 3 and Rs.10,000/- towards litigation expenses, is under challenge, at the instance of the petitioner/husband by way of the present Criminal Revision Case.

2. According to the petitioner, he is a call taxi driver and is earning Rs.8,000/- to Rs.10,000/- per month. However, the respondents, without adducing any evidence either in oral or documentary before the Family Court, have projected as if the petitioner owns two cars and one house and is having the bank balance of Rs.30 lakhs. The petitioner further stated that the second respondent has quit her studies and has started her career as an actress and is earning adequately. As such, the award of maintenance passed by the Family Court is over and above the earning capacity of the petitioner and hence, the same is liable to be set aside.

3. Today, when the matter came up for consideration, there is no representation for the petitioner either in person or through his learned counsel.

4. On the other hand, the learned counsel for the respondents submitted that the trial Court has considered the materials available on record in a proper perspective and has ordered the maintenance amount and hence, the same does not require any interference in the hands of this Court.

5. While admitting this Criminal Revision on 29.08.2017, this Court has granted an order of interim stay on condition that the petitioner should deposit a sum of Rs.1,00,000/- towards arrears of maintenance within a period of four weeks and thereafter, pay a sum of Rs.25,000/- by way of monthly instalments till the entire arrears of Rs.2,28,000/- calculated on the basis of Rs.6,000/- per month for 38 months from the date of petition till date, is settled and further, continue to pay a sum of Rs.6,000/- i.e., Rs.2,000/- each for the respondents towards current maintenance without fail, until further orders.

6. It is reported by the learned counsel for the respondents that the petitioner has not complied with the aforesaid order dated 29.08.2017.

7. This Court is of the view that the petitioner/husband is under a moral obligation to maintain his wife and children and he cannot wriggle out of the said responsibility and hence, the defiance on the part of the petitioner/husband with regard to the payment of maintenance amount as per the interim order passed by this Court, cannot be countenanced.

8. Considering the facts and circumstances of the case, the maintenance awarded by the Family Court seems to be very reasonable and hence, the same warrants no interference by this Court.

9. Accordingly, this Criminal revision stands dismissed. It is open to the respondents to recover the maintenance including arrears of maintenance as ordered by the Family Court, in the manner known to law. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

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Sub Assistant Registrar

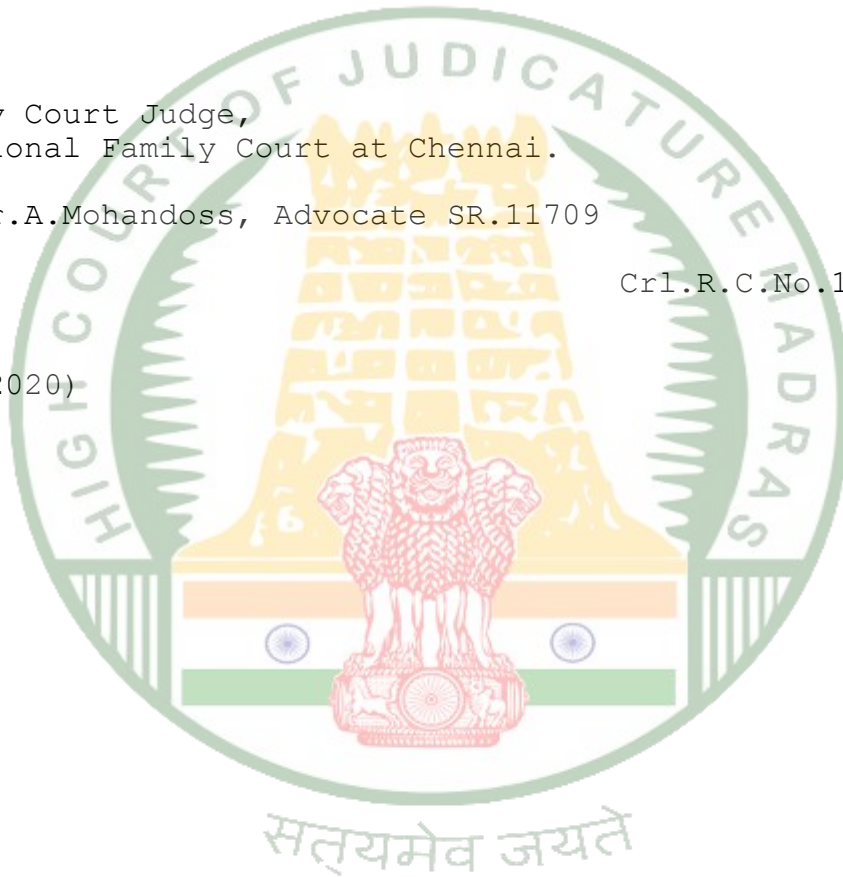
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To
The Family Court Judge,
III Additional Family Court at Chennai.

+1cc to Mr.A.Mohandoss, Advocate SR.11709

Cr1.R.C.No.1127 of 2017

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CB(19/03/2020)



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