

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14.02.2020
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

CrI.R.C.No.1548 of 2017
and
CrI.MP.No.15559 of 2017

Chandramoorthy

... Petitioner

Vs.

1.P.Selvi

2.Vivekanandan -Minor
3.Krishnakanth - Minor

(Minors 2 & 3 are represented by
their mother and natural guardian
P.Selvi)

... Respondents

Prayer: Criminal Revision Case filed under Sections 397 r/w
401 of the Criminal Procedure Code seeking to set aside the
order and decretal order dated 05.10.2017 passed in M.C.No.25
of 2013, on the file of the Chief Judicial Magistrate Court,
Perambalur.

For Petitioner : No Appearance

For Respondents : Mr.Kishore Kumar

O R D E R

This petitioner herein is the husband and the first respondent herein is the wife. Out of the said wedlock, they were blessed with two children, viz., respondents 2 and 3. Due to a matrimonial dispute between them, they got separated. The first respondent filed a petition for maintenance before the Chief Judicial Magistrate Court, Perambalur, claiming a monthly maintenance of Rs.10,000/- each for herself as well as her children. Considering the materials available on record, the learned Chief Judicial Magistrate, Perambalur, directed the petitioner to pay a monthly maintenance of Rs.3,000/- to the first respondent and Rs.2,000/- each to the 2nd and 3rd respondents, totally a sum of Rs.7,000/- from the date of petition for maintenance. Challenging the same, the petitioner has come up with this Criminal Revision Case.

2. There is no representation for the petitioner either in person or through his learned counsel on the previous hearing i.e. on 05.02.2020 as well as today.

3. It is stated in the affidavit filed in support of this Criminal Revision that when the petitioner was in Dubai, the first respondent impersonated herself and sold the plots purchased by the petitioner in his name and in the name of the first respondent and misappropriated all the sale proceeds worth about Rs.15 lakhs; apart from that, she is having a sum of Rs.5 Lakhs sent by the petitioner at Dubai; and further, she is earning a sum of Rs.60,000/- by lending the said sum for interest; and hence, she has sufficient means to maintain herself as well as her children. It is further stated therein that the petitioner filed HMOP.No.108 of 2013 seeking restitution of conjugal rights, which was allowed. Hence, the petitioner prayed to set aside the order impugned herein.

4. Per contra, the learned counsel for the respondents submitted that the Family Court, after analysing the materials available on record, has rightly awarded the monthly maintenance to the tune of Rs.7,000/- (i.e., Rs.3,000/- to the first respondent and Rs.2,000/- each to the respondents 2 and 3) and hence, the same does not call for any interference by this Court.

5. Heard the learned counsel for the respondents and perused the materials placed before this Court.

6. On 02.03.2018, notice was ordered to the respondents. However, till date, no interim order was granted in favour of the petitioner. It is reported by the learned counsel for the respondent that the petitioner/husband has not complied with the order passed by the trial Court.

7. 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 of vagrancy, immorality and crime for their subsistence or go astray (vide : Begum Subanu @ Saira Banu v. A.M.Abdul Gafoor, AIR 1987 SC 1103). Such being the legal position, this Court is of the opinion that the petitioner/husband is bound to pay the monthly maintenance to the respondents and he cannot wriggle out of the said

responsibility.

8.The Family Court, after a careful threadbare analysis of the materials available on record, has awarded a reasonable sum of Rs.3,000/- in favour of the first respondent / wife and Rs.2,000/- each to the respondents 2 and 3 / children towards monthly maintenance, which shall be payable by the petitioner/husband on or before 10th of every succeeding English Calender month. Taking note of the facts and circumstances of the case, the award so passed by the trial 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 proceed against the petitioner for recovery of the maintenance amount, in the manner known to law. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Chief Judicial Magistrate Court
Perambalur.

copy to

The Section Officer
Criminal Section
High Court, Madras

+1 cc to Mr.T.Sai Krishnan Advocate srl2829

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