

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2020

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN

Crl.R.C.Nos.408 & 1078 of 2017

A.T.R.Kumar : Petitioner in Crl.R.C.No.408 of 2017
& Respondent in Crl.R.C.No.1078/2017

vs.

1. Karpagam

2. Minor Rakeshraj

(Minor R-2 rep. By next friend and
guardian mother, R-1)

: Respondents in Crl.R.C.No.408 of 2017
& petitioners in Crl.R.C.No.1078 fo 2017

Prayer in Crl.R.C.No.1078 of 2017: Criminal Revision Case filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the order dated 13.10.2016 passed by the learned Family Court, Vellore in CMP No.417 of 2016 in M.C.No.12 of 2016.

Prayer in Crl.RC.No.407 of 2017: Criminal Revision Case filed under Section 397 read with Section 401 Cr.P.C. seeking to call for the records relating to order dated 13/10/2016 passed in C.M.P.No.417 of 2016 in M.C.No.12 of 2016 on the file of the Judicial Magistrate Court, Vellore, set aside the same and order D.N.A Test.

For Petitioner in Crl.R.C.No.408 of 2017
& Respondent in Crl.R.C.No.1078/2017 : Mr.P.Mani

For Respondent in Crl.R.C.No.408 of 2017
& petitioners in Crl.R.C.No.1078/2017
: Mr.R.Bhagawat Krishna.

C O M M O N O R D E R

Heard both sides and perused the materials on record.

2. The order dated 13.10.2016 passed by the learned Judge, Family Court, Vellore, in C.M.P.No.417 of 2016 in M.C.No.12 of 2016, fixing the interim maintenance at Rs.8,000/- per month in favour of the respondents (wife and son), is under challenge, at the instance of the petitioner (husband of R-1 and father of R-2), in Crl.R.C.No.408 of 2017. Seeking enhancement of such interim maintenance ordered, the wife and son have filed Crl.R.C.No.1078 of 2017.

3. Since the issue involved in both the cases are inter-linked, they are taken up together and a common order is passed.

4. Before going into the merits of the case, it is to be pointed out that by order dated 13.03.2017, this Court has granted an order of interim stay in Crl.R.C.No.408 of 2017 on a condition that the petitioner therein shall deposit the arrears of maintenance amount from the date of petition, as ordered by the Court below, to the credit of M.C.No.12 of 2016, on the file of the learned Judge, Family Court, Vellore, within a period of four weeks from the date of receipt of a copy of that order. According to the learned counsel for the respondents (wife and son) the conditional order passed by this Court dated 13.03.2017 has not been complied with by the petitioner, thus far.

5. Since contentions were raised by both sides touching the merits of the cases, this Court is of the view that these Cases can be disposed of, leaving it open to both the parties to agitate the issue before the trial court, by issuing the following directions:-

(i) The learned Judge, Family Court, Vellore, is directed to dispose of the case in M.C.No.12 of 2016, pending on her file, on merits, in accordance with law and uninfluenced by anything said in this order, after affording due opportunity to both parties, within a period of three months from the date of receipt of a copy of this order.

(ii) Pending disposal of the Maintenance Case, the petitioner in Crl.R.C.No.408 of 2017 is directed to pay a sum of Rs.8,000/- as interim maintenance amount to the respondents therein, regularly without any default, payable on or before 5th of every succeeding English Calendar month.

(iii) The arrears calculated at the rate of Rs.8,000/- per month from the date of petition for maintenance shall be paid by the petitioner in two instalments. The first instalment shall be paid on or before 10th March 2020 and the second instalment shall be paid on or before 10th April 2020.

6. With the above directions, these Criminal Revision Cases are disposed of.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy//

Sub Assistant Registrar

srk

To

- 1.The Judge,
Family Court, Vellore.
- 2.The Judicial Magistrate, Vellore.
- 3.The Chief Judicial Magistrate,
Vellore District.

+1cc to Mr.P.Mani, Advocate, SR.No.10320.

+1cc to Mr.R.Bhagawat Krishna, Advocate, SR.No.9256.

Crl.R.C.Nos.408 & 1078 of 2017

NR(CO)
CSR: 17.03.2020



WEB COPY