

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2020

CORAM

THE HONOURABLE Mr. JUSTICE R. MAHADEVAN

Cr1.R.C.No.597 of 2017
and
Cr1.M.P.No.5267 of 2017

A.Selvakumar

... Petitioner

Vs.

1.S.Arivumani

2.Minor Lavanya
rep.by her guardian and mother
the first respondent herein.

... Respondents

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the order passed in M.C.No.41 of 2014 dated 16.12.2016 on the file of the Family Court, Erode, as far as the first respondent is concerned.

For Petitioner : Mr.I.C.Vasudevan

For Respondents : Mr.S.Kaithamalai Kumaran

O R D E R

The petitioner herein is the husband and the first respondent herein is the wife. Due to a matrimonial dispute between them, the petitioner filed a petition for divorce against the first respondent in HMOP No.59 of 2015 and the same was allowed by the Family Court, Erode, Erode District by order dated 16.12.2016. The first respondent filed a petition for maintenance before the Trial Court, claiming a sum of Rs.15,000/- per month for her and her daughter. Considering the materials available on record, the Trial Court ordered the petitioner herein to pay a monthly maintenance of Rs.5,000/- to the first respondent from the date of petition for maintenance, regularly. A sum of Rs.3,000/- as maintenance, has also been

ordered to be paid to the second respondent from the date of petition for maintenance till she attained majority, ie., till 10.07.2014. Challenging the same, the petitioner has come up with this Criminal Revision Case.

2.The learned counsel for the petitioner has submitted that even though the petitioner is ready to pay a sum of Rs.3,000/- as monthly maintenance to the second respondent as ordered by the Trial Court, as far as the first respondent -wife is concerned, since she is working as a Noon Meal Organiser and getting a monthly salary of Rs.9,030/-, she is not entitled for any maintenance under Section 125 of Cr.PC. It is also submitted that the maintenance amount ordered in respect of the first respondent is high. Stating so, the learned counsel prayed for quashing the impugned order.

3.The learned counsel for the respondents has submitted that against the decree of divorce granted by the Family Court, Erode, an appeal has been filed before this Court in C.M.A.SR.No.39957 of 2017 along with a petition in C.M.P.No.9140 of 2017 for condoning the delay in filing the appeal, and the same are pending. He also submitted that the Trial Court has considered the materials on record in a proper perspective and has ordered the maintenance amounts and hence the same does not require any interference.

4.Heard both sides and perused the papers.

5.While ordering notice in this Criminal Revision on 13.04.2017, interim stay was granted on condition to deposit 50% of the arrears of maintenance amount before the Trial Court. This Court has also directed the petitioner to pay a sum of Rs.3,000/- per month towards maintenance to the second respondent, as ordered by the Trial Court. But this Court has not given any direction as regards the maintenance amount to be paid to the first respondent wife. The said sum of Rs.3,000/- ordered to be paid as maintenance to the second respondent is not a continuous one, and it has been restricted only till the second respondent attained the age of majority, ie., till 10.07.2014 and hence this Court is not inclined to interfere with the same. With regard to the payment of maintenance amount in respect of the first respondent, considering the facts and circumstances of the case, this Court deems it fit to reduce the maintenance amount from Rs.5,000/- to Rs.4,000/-. The monthly maintenance amount of Rs.5,000/- fixed by the Trial Court shall hold good till January 2020 and the modified monthly maintenance amount of Rs.4,000/- shall be effective from the month of February 2020. Accordingly, this Court directs the petitioner to

pay the monthly maintenance amount of Rs.4,000/- (Rupees Four Thousand Only) commencing from the month of February 2020, to the first respondent regularly before 5th of every English calendar month, till the disposal of the appeal in C.M.A.SR.No.39957 of 2017 by this Court.

6.The Criminal Revision Case is disposed of accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Judge, Family Court,
Erode.

+1cc to Mr.S.Kaithamalai Kumaran, Advocate sr.5638

Crl.R.C.No.597 of 2017
and
Crl.M.P.No.5267 of 2017

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