

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.R.C.No.1445 of 2018

1. Sathya
2. Rahul
minor represented by his
natural guardian mother Sathya .. Petitioners
Vs
Senthilkumar .. Respondent

Prayer: Criminal Revision filed under Section 397 and 401 of the Code of Criminal Procedure, seeking to set aside the order passed by the District Munsif cum Judicial Magistrate, Kattumannarkoil, in M.C.No.6 of 2016, dated 27.11.2018 in so far as the quantum of maintenance and further direct the respondent to pay the maintenance as prayed for in the petition to the petitioners.

For Petitioners: Mr.G.Pugazhenth

For Respondent : No appearance

ORDER

Being dissatisfied with the quantum of maintenance awarded by the learned District Munsif -cum -Judicial Magistrate, Kattumannarkoil, vide order 27.11.2018 passed in M.C.No.6 of 2016, the petitioners have preferred this Criminal Revision, seeking enhancement of the same.

2. The case of the petitioners is that the marriage between the first petitioner and the respondent was solemnized on 15.12.2008 and they were blessed with a male child, who is the second petitioner herein. The respondent has been harassing the first petitioner from the date of marriage and threw her out from the matrimonial home, due to which, she was forced to live with her parents along with the second petitioner. Since the second petitioner is a physically challenged boy, the parents of the first petitioner made arrangements for his treatment. Since the first petitioner has no independent source of income to maintain herself as well as the second petitioner, M.C.No.6 of 2016 was filed seeking maintenance of a sum of

Rs.10,000/- to the second petitioner and Rs.5,000/- to herself. According to the petitioners, the Trial Court, without properly appreciating the materials placed by them, ordered only a sum of Rs.1,500/- to the first petitioner and Rs.3,000/- to the second petitioner, which are sought to be enhanced in this revision.

3. Despite the service of notice and the name of the respondent having been printed in the cause list, there is no representation on his behalf either in person or through his learned counsel on the last three hearings as well as today's hearing.

4. Heard the learned counsel for the petitioners and perused the materials available on record.

5. The facts are not in dispute. The trial Court in the impugned order followed the judgment of the Apex Court in *Sunita Kachwaha and Others V. Anil Kachwaha*, (SLP(Cr.)No.2310/2014), to hold that it is not necessary for the Court in a proceeding under Section 125 Cr.P.C. to ascertain as to who was wrong and the minute details of the matrimonial dispute between the husband and wife, need not be gone into, and accordingly, held that the defence raised by the respondent that the first petitioner left the matrimonial home on her own seeking to set up a nuclear family cannot be taken into account to reject the prayer of the petitioners. However, considering the fact that the respondent is an agricultural worker and he has no other means of income, the trial Court has passed the impugned order granting maintenance, as indicated above.

6. Considering the facts and circumstance of the case and having regard to the plight of the petitioners, this Court is of the view that the impugned order cannot be held to be totally erroneous, however, enhancing the maintenance amount at least from the date of the order passed by the trial Court to some extent, would meet the ends of justice.

7. Accordingly, the impugned order stands confirmed to the limited extent that the respondent shall pay the maintenance amount, as awarded by the trial Court, to the petitioners till the date of passing of the impugned order, i.e., on 27.11.2018. That apart, the respondent is directed to pay a sum of Rs.3,000/- to the first petitioner and a sum of Rs.5,000/- to the second petitioner from the date of impugned order and continue to pay the said enhanced amount on or before 5th of every succeeding English Calender month, without any default. It is open to the petitioners to recover the arrears of maintenance amount, as directed by this Court from the respondent, in the manner known to law.

8. Accordingly, this Criminal Revision stands disposed of.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

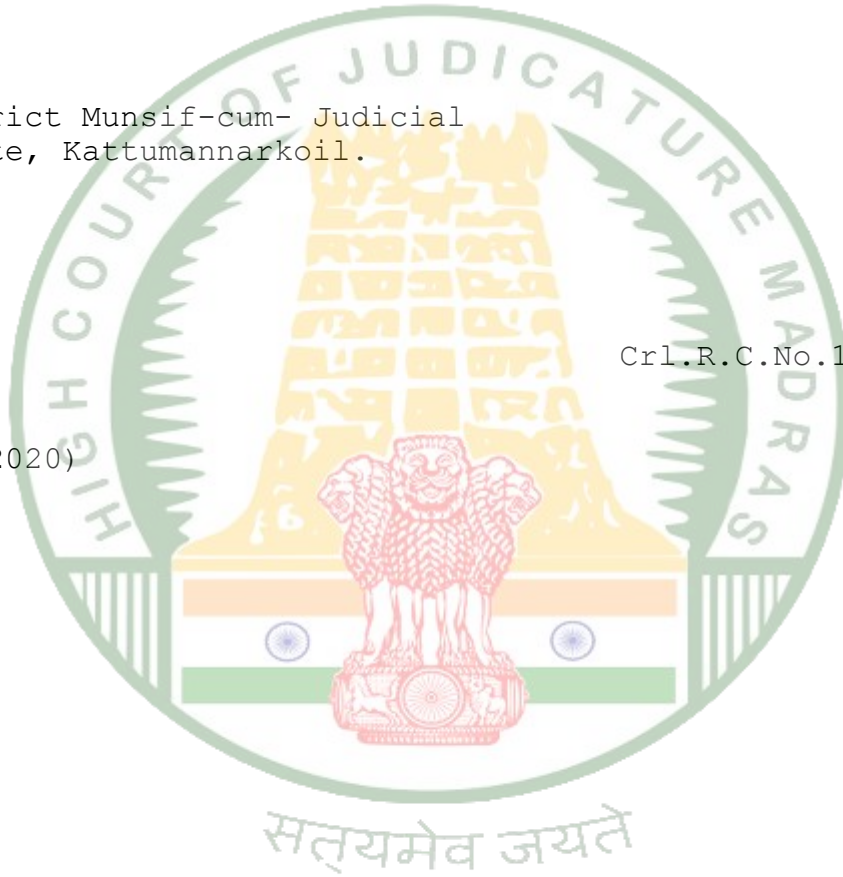
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To

The District Munsif-cum- Judicial
Magistrate, Kattumannarkoil.

Crl.R.C.No.1445 of 2018

SVI (CO)
GS (20/05/2020)



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