



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.09.2020

Delivered on : 29.09.2020

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C. (MD)No.56 of 2020

and

Crl.M.P. (MD)Nos.523 and 2016 of 2020

WEB COPY

Ranjith Singh .. Petitioner /Petitioner/Respondent

Vs.

1.Baby ..Respondent No.1/Respondent/Petitioner

2.The State of Tamil Nadu,

Rep. by the Public Prosecutor,

Nagercoil.

.. Respondent No.2/2nd Respondent

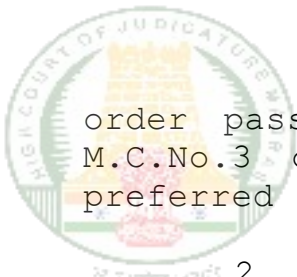
Prayer : This Revision Case is filed under Sections 397 (1) read with Section 407 of Cr.P.C., to call for the records and to set aside the order passed in Revision Petition No.13 of 2019, dated 02.11.2019, on the file of the Additional District and Sessions Judge, Padmanabhapuram, confirming the order passed in M.C.No.3 of 2018, dated 12.02.2019 on the file of the Judicial Magistrate No.II, Kuzhithurai and allow the Criminal Revision Case.

For Petitioner	: Mr.S.Sivakumar
For R1	: Mr.M.R.Sreenivasan
For R2	: Mrs.Anandha Devi
	Government Advocate

ORDER

This revision has been filed to set aside the order passed in Revision Petition No.13 of 2019, dated 02.11.2019, on the file of the Additional District and Sessions Judge, Padmanabhapuram, confirming the order passed in M.C.No.3 of 2018, dated 12.02.2019 on the file of the Judicial Magistrate No.II, Kuzhithurai

2. The revision petitioner herein is the husband and the first respondent herein is the wife. The first respondent / wife filed a petition in M.C.No.3 of 2018, before the Judicial Magistrate No.II, Kuzhithurai, seeking maintenance of Rs.10,000/- per month from the husband/ petitioner herein. The learned Magistrate allowed the petition on 12.02.2019 directing the husband to pay a sum of Rs.10,000/- per month from the date of petition. Against the order passed by the Judicial Magistrate No.II, Kuzhithurai, the husband filed a revision petition before the Additional District and Sessions Judge, Padmanabhapuram, in Revision Petition No.13 of 2019. That revision petition was allowed by the Sessions Judge, on 02.11.2020 confirming the



order passed by the Judicial Magistrate No.II, Kuzhithurai, in M.C.No.3 of 2018. Against which, the petitioner / husband preferred this revision.

2. On the side of the petitioner / husband, it is stated that the petitioner / husband has settled his property with an extent of 62 cents situated near the State High Ways, which is worth more than one Crore rupees in favour of the wife and his son, including a house. From the property settled in favour of the first respondent and the son of the petitioner, they are gaining Rs.10,000/- per month as income. It is stated that from 10.02.1995 onwards, the first respondent / wife deserted the petitioner / husband. Two daughters are with the petitioner / husband and one son is with the first respondent / wife. Only after 23 years, the first respondent / wife has filed the petition for maintenance. The salary of the revision petitioner was not proved by the first respondent / wife. The burden of proof is upon the first respondent / wife, but, the trial Court failed to consider the same and presumed that the husband failed to produce the salary certificate which amounts to prove the salary / income of the petitioner / husband by the first respondent / wife.

3. On the side of the first respondent/ wife, it is stated that the petitioner / husband was working as a driver in the Transport Corporation and earning Rs.40,000/- per month. The salary slip was not produced by the petitioner / husband. The first respondent / wife was deserted from the year 1995. No property was settled in the name of the first respondent / wife. No such document was produced by the petitioner / husband. The petitioner / husband has not paid the arrears of maintenance so far and prayed the petition to be dismissed.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. It is seen that the marriage between the revision petitioner / husband and the first respondent / wife was not disputed. It is admitted that the husband was working as a driver in the Transport Corporation. Both of them failed to produce the salary certificate before the trial Court. The petitioner / husband filed a salary certificate only before this Court. This income certificate was dated 09.11.2019, ie. after the date of retirement (31.05.2019) and this document cannot be taken into consideration, since, the M.C. was filed much prior to the date of issuance of this certificate. No document was filed on the side of the petitioner / husband, to prove that a property was settled in the name of the first respondent / wife.

6. Considering the present cost of living, this Court deems



it fit to modify the order passed by the first Appellate Court, confirming the order of the Trial Court. The monthly maintenance is fixed as Rs.8,000/- per month. The petitioner / husband is directed to pay the arrears of monthly maintenance from 02.02.2018 till the date of this order within a period of three months from the date of receipt of a copy of this order. The petitioner / husband is directed to pay the monthly maintenance amount on or before 5th day of every English calendar month thereafter.

7. With the above directions, this Criminal Revision Case is partly allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Additional District and Sessions Judge,
Padmanabhapuram, Kanyakumari District.
2. The Judicial Magistrate No.II,
Kuzhithurai, Kanyakumari District.
- 3.The Public Prosecutor,
State of Tamil Nadu,
Nagercoil, Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.M.R. SREENIVASAN, Advocate (SR-18584[F] dated 30/09/2020)

+1 CC to Mr.S. SIVAKUMAR, Advocate (SR-18612[F] dated 01/10/2020
order made in

Crl. R.C.(MD)No.56 of 2020

29.09.2020

VR(CO)

KM (07.10.2020) 3P 7C

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