



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 21.07.2020

CORAM

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.57 of 2020

and

Crl.M.P.(MD)No.532 of 2020

A.Manikandan

.. Petitioner/Respondent

Vs.

1.M.Jeyabarathi

2.Minor M.Vishnuvarthini

Rep. By her natural guardian/mother/1st respondent

.. Respondents/Petitioner

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records from the Courts below and set aside the order partly allowed by the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam in M.C.No.43 of 2018 dated 29.11.2019.

For Petitioner
For Respondents

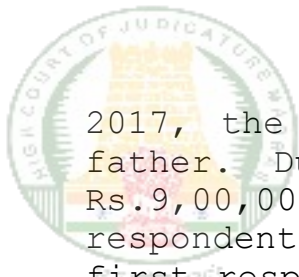
: M/s.M.Maria Vinola
: Mr.A.Saravanan

ORDER

This revision case has been filed to set aside the order passed in M.C.No.43 of 2018 dated 29.11.2019, on the file of the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam.

2.On the side of the petitioner, it is stated that the petitioner is the husband and the first respondent is the wife and the second respondent is the daughter. The first respondent wife has filed a maintenance case in M.C.No.43 of 2018 and the Court has ordered payment of Rs.10,000/- (Rupees Ten Thousand only) per month towards maintenance of the second respondent. Aggrieved by that order, the petitioner preferred this revision case. This Court has ordered deposit of Rs.1,00,000/- (Rupees One Lakh only) and that amount was deposited by the petitioner and a stay order was granted.

3.On the side of the petitioner, it is stated that the petitioner is working in abroad and from March 2016 till October



2017, the petitioner sent money to the first respondent and her father. Due to close relationship, the petitioner transferred Rs.9,00,000/- (Rupees Nine Lakhs only) in the name of the first respondent and her father for purchase of a land in his name. The first respondent and her father instead of purchasing the land in the name of the petitioner, purchased the property in the name of the first respondent.

4.It is further stated that the petitioner wants to put the child in a best school following CBSE syllabus, but to save money, the first respondent put the second respondent in a State Board school. The petitioner has given 24 sovereigns of gold to the first respondent and she is retaining the jewels. The first respondent lodged a complaint before the Social Welfare Department during the year 2018 but she failed to attend the enquiry. The petitioner educated the first respondent and he spent for her stay in hostel for the B.ed Course. The petitioner is ready to live with the first respondent but the first respondent deserted the petitioner.

5.On the side of the petitioner, it is further stated that the petitioner has come back from abroad. At present, he is not having any work . He is depending upon his aged parents for his living. He is not in a position to earn Rs.10,000/- (Rupees Ten Thousand only) per month for paying the maintenance amount.

6.On the side of the first respondent, it is stated that the first respondent has not filed any appeal demanding maintenance for the first respondent. The award is very reasonable and award of the maintenance was only to the second respondent. If at all the petitioner is aggrieved over any other dispute regarding the purchase of land or regarding the payment of gold, he has to take separate proceedings and he cannot deny payment of maintenance to the second respondent.

7.It is seen that there is no dispute regarding the paternity of the second respondent. When the petitioner is ready to provide best education to the second respondent minor child, the petitioner cannot claim that he is not capable of earning. Even if there is no proper income for the petitioner, the petitioner cannot deny maintenance to his own daughter. The allegation against the first respondent cannot be a hindrance for the payment of maintenance to the second respondent.

8.A perusal of the records reveals that the first respondent has not filed any document to prove the income of the petitioner.



9.Considering the present day living expenses and also considering the situation of the petitioner, this Court is inclined to fix the maintenance at Rs.7,500/- (Rupees Seven Thousand Five Hundred only) per month. The petitioner is directed to pay the arrears of maintenance within a period of three months from the date of receipt of copy of this order. The petitioner is directed to pay a maintenance of Rs.7,500/- (Rupees Seven Thousand Five Hundred only) per month on or before fifth of every month therefrom.

10.With the above direction, this Criminal Revision Case is partly allowed and the order in M.C.No.43 of 2018 dated 29.11.2019, on the file of the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam is hereby modified. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Mrn

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 Chief Judicial Magistrate,
Thanjavur District at Kumbakonam.

+1 CC to M/s.A.SARAVANAN, Advocate (SR-13187[F] dated
22/07/2020)

Crl. R.C.(MD)No.57 of 2020
21.07.2020

avs (CO)
TR(29.07.2020) 3P 3C