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Crl. R.C.(MD)Nos.474 and 509 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 14.10.2020
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THE HONOURABLE MRS. JUSTICE R. THARANI
Crl. R.C.(MD)Nos.474 and 509 of 2020
and Crl.M.P.(MD)No.4564 of 2020

Crl. R.C.(MD)No.474 of 2020

Selvasundari

.. Petitioner

Vs.

Sudalaikani

.. Respondent

Prayer : This Revision Case is filed under Sections 397 and Section 401 of Cr.P.C., to call for the records relating to the order dated 11.11.2019 made in M.C.No.1 of 2016 on the file of the Judicial Magistrate, Rajapalayam and set aside the same to the extent of maintenance awarded to the petitioner herein and to enhance the maintenance amount from Rs.7,000/- to Rs.18,000/-.

For Petitioner

: Mr.R.Niresh Kumar

For Respondent

: Mr.M.Jothi Basu

Crl. R.C.(MD)No.509 of 2020

Sudalaikani

.. Petitioner

Vs.

Selvasundari

.. Respondent

Prayer : This Revision Case is filed under Sections 397 and Section 401 of Cr.P.C., to set aside the order passed by the Judicial Magistrate, Rajapalayam, Virudhunagar District, in M.C.No.1 of 2016, on 11.11.2019 and to allow this Criminal Revision.

For Petitioner

: Mr.M.Jothi Basu

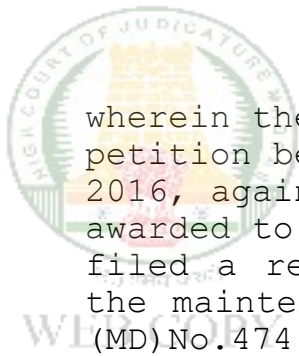
For Respondent

: Mr.R.Niresh Kumar

COMMON ORDER

The revision petitioner and the respondent are husband and wife. The revision petitioner in Crl.R.C.(MD)No.509 of 2020 is the husband and the respondent in that petition is the wife. The wife filed another revision petition in Crl.R.C.(MD)No.474 of 2020,

<https://hcservices.ecourts.gov.in/hcservices/>



wherein the husband is the respondent. Originally, the wife filed a petition before the Judicial Magistrate, Rajapalayam in M.C.No.01 of 2016, against the husband for maintenance. A sum of Rs.7,000/- was awarded to the wife as maintenance. Against that order, the husband filed a revision case in Crl.R.C.(MD)No.509 of 2020, to set aside the maintenance order. The wife filed a revision case in Crl.R.C.(MD)No.474 of 2020, for enhancement of the maintenance amount.

2. Crl.R.C.(MD)No.474 of 2020 is taken up as the lead case, the word "revision petitioner" will denote the wife and the word "respondent" will denote the husband.

3. On the side of the husband, it is stated that the husband has to take care of his aged parents. It is further stated that already the Subordinate Judge, Srivilliputhur, has ordered a sum of Rs.7,000/- (Rupees Seven Thousand only) towards interim maintainance in I.A.No.81 of 2015. If both the orders are to be taken together, the husband has to pay a sum of Rs.14,000/- (Rupees Fourteen Thousand only) per month to the wife, which is exorbitant and prayed the amount to be reduced.

4. On the side of the wife, it is stated that the monthly salary of the husband is Rs.69,947/- (Rupees Sixty Nine Thousand Nine Hundred and Forty Seven only). The salary receipt was already marked as Ex.P8. The husband also admitted that amount. He has wantonly deserted the wife. The husband filed a petition for divorce in H.M.O.P.No.158 of 2012. The same was dismissed. The wife filed a petition for restitution of conjugal rights in H.M.O.P.No.28 of 2012. The same was allowed by the Sub Court, Srivilliputhur and a sum of Rs.7,000/- (Rupees Seven Thousand only) was ordered as maintenance to the wife, which is insufficient to maintain an individual. The husband is having a own house, whereas, the wife is un-employed and there is no source of income and hence, the maintenance amount has to be enhanced to Rs.18,000/- per month.

5. It is seen that the wife filed a petition in H.M.O.P.No.28 of 2012, seeking restitution of conjugal rights and the same was allowed by the Sub Court, Srivilliputhur. The husband filed a divorce petition in H.M.O.P.No.158 of 2012 on the file of the Sub Court, Srivilliputhur and the same was dismissed. The wife filed a petition in I.A.No.81 of 2015, seeking interim maintenance and the Sub Court awarded a sum of Rs.7,000/- (Rupees Seven thousand only) per month and a sum of Rs.3,000/- (Rupees Three Thousand only) towards litigation charges. It is seen that the husband is a Secondary Grade Teacher and he has admitted that he is receiving a salary of Rs.57,840/- (Rupees Fifty Seven Thousand Eight Hundred and Forty only) per month. There is no dispute regarding the status of marriage. The husband is duty bound to maintain the wife. In the M.C. Case filed by the wife, the Magistrate has ordered for a monthly maintenance of Rs.7,000/- (Rupees Seven Thousand only).

<https://hccs.courtts.gov.in/cases> Under, this revision petition has been filed by the



husband.

6. The order in I.A.No.81 of 2015 is only an interim order. Both the parties agreed that the order in I.A.No.81 of 2015 may be ignored. On the side of the husband, it is stated that the husband has already paid Rs.3,36,000/- (Rupees Three Lakhs Thirty Six Thousand only) towards maintenance in I.A.No.81 of 2015 in H.M.O.P.No.158 of 2012, and therefore, the amount so paid may be reduced from the maintenance amount to be paid by the husband in M.C.No.1 of 2016. On the side of the wife, it is accepted that the sum of Rs.3,36,000/- may be taken into account as amount paid in M.C.No.1 of 2016.

7. Since the wife accepted the payment in I.A.No.81 of 2015 to be reduced in the amount to be paid in M.C.No.1 of 2016, it is decided that the amount already paid by the husband in I.A.No.81 of 2015 is to be deducted from the amount due in M.C.No.1 of 2016.

8. Considering the salary of the husband and considering the present date cost of living, this Court fixed the maintenance amount as Rs.8,500/- (Rupees Eight Thousand Five Hundred only) per month to be paid by the husband on or before 10th of every English Calender month from the date of this order. Accordingly, the order passed by the learned Judicial Magistrate, Rajapalayam, in M.C.No.1 of 2016, is set aside. The maintenance amount is enhanced to Rs.8,500/- (Rupees Eight Thousand Five Hundred only) from the date of this Order. The Criminal Revision filed by the wife, in Crl.R.C.(MD) No.474 of 2020, is hereby allowed. The Criminal Revision filed by the husband, in Crl.R.C.(MD)No.509 of 2020, is hereby dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

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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 Judicial Magistrate,
Rajapalayam.

2.The Subordinate Judge,
Srivilliputhur.

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+2 CC to M/s.M. JOTHI BASU, Advocate (SR-20111[F],SR-20112[F] dated
15/10/2020)

Crl. R.C.(MD)Nos.474 and 509 of 2020
14.10.2020

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