



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CrL.R.C. (MD) Nos.389 & 518 of 2015

and

M.P. (MD) No.1 of 2015

M.Kamatchi Viswanathan ... Petitioner / Respondent in
CrL.R.C. (MD) No.389/2015
and
Respondent/Respondent in
CrL.R.C. (MD) No.518/2015

vs.

1) V.Uma
2) Minor Neela
3) Minor Nisha ... Petitioners/Petitioners in
CrL.R.C. (MD) No.518/2015
and
Respondents/ Petitioners in
CrL.R.C. (MD) No.389/2015

PRAYER in CrL.R.C. (MD) No.389/2015: Criminal Revision Petition is filed under Section 397 (1) r/w 401 of the Code of Criminal Procedure, to call for the records and set aside the order dated 08.07.2015 in M.C.No.32 of 2014 on the file of the Family Court, Tiruchirappalli.

PRAYER in CrL.R.C. (MD) No.518/2015: Criminal Revision Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records in M.C.No.32 of 2014 on the file of the Hon'ble Family Court, Tiruchirappalli, Tiruchirappalli District and modify the order dated 08.07.2015, by directing the respondent herein to pay the maintenance for the petitioners from the date of filing of the petition before the Trial Court.

In both the cases:

For Petitioner in : Mr.G.Prabhu Rajadurai

CrL.R.C. (MD) No.389/2015 &
For Respondent in
CrL.R.C. (MD) No.518/2015

For Respondents in : Mr.A.Thiruvadi Kumar
CrL.R.C. (MD) No.389/2015 &
For Petitioners in
CrL.R.C. (MD) No.518/2015



C O M M O N O R D E R

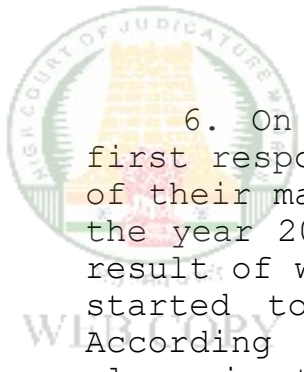
Since the parties referred herein are one and the same, both the criminal revision cases are clubbed together and disposed of by this common order.

2. There are two Criminal Revision Cases - one filed by the husband, who is the petitioner in CrL.R.C.(MD) No.389/2015 to set aside the order dated 08.07.2015 made in M.C.No.32 of 2014 on the file of the Family Court, Tiruchirappalli and another one filed by the wife along her minor children, who are the petitioners in CrL.R.C.(MD) No.518/2015, to modify the order dated 08.07.2015 made in M.C.No.32 of 2014 on the file of the Family Court, Tiruchirappalli, by directing the respondent herein to pay the maintenance for the petitioners from the date of filing of the petition before the Trial Court.

3. For the sake of convenience, the husband is hereafter referred as the *petitioner* and the wife along with two children are referred as *respondents 1 to 3*.

4. The trial Court passed an order in M.C.No.32 of 2014, on the file of the Family Court, Tiruchirappalli granting the maintenance amount of Rs.10,000/- (Rupees Ten Thousand only) to the petitioner's wife and a sum of Rs.3,000/- each (Rupees Three Thousand only) to his two female children. Challenging the said maintenance amount awarded by the Trial Court, a criminal revision case has been filed by the petitioner in CrL.R.C.(MD) No.389/2015. Also, aggrieved by the order of the trial Court, the first respondent has filed a criminal revision case in CrL.R.C.(MD) No.518/2015 seeking for modification of the above said order and to direct the petitioner to pay the maintenance for the respondents 1 to 3 from the date of filing of the petition before the Trial Court.

5. The marriage between the petitioner and the first respondent was solemnized on 30.08.2009 at Sri Bahavathi Mahal, Vadugapatti, as per Hindu rites and customs in the presence of friends and relatives. At the time of engagement, the petitioner's family demanded about 17 sovereign gold jewelry, including 2 sovereign gold jewelry for the petitioner, along with cash of Rs.25,000/- as dowry with house-hold articles for which the first respondent's family expressed their inability to provide the same. Therefore, the family members of the petitioner, abused the first respondent's family using filthy language. After much chaos and confusion, the marriage was conducted between the petitioner and the first respondent with 12 sovereigns of gold jewelry including 2 sovereign gold jewelry to the petitioner along with cash of Rs.10,000/- which was given as sreedhana by the first respondent family.



6. On 24.06.2010, out of the wedlock, the petitioner and the first respondent were blessed with female twins. Starting from day-1 of their marriage, there was no compatibility between the couple. In the year 2012, there arose a matrimonial dispute between them, as a result of which, the first respondent left her matrimonial house and started to live with her parents along with her two children. According to the petitioner, even though the marriage that took place in the year 2009, the first respondent and the petitioner himself desolated the matrimonial life in the same year itself. The twin children, respondents 2 & 3 herein, were born at the first respondent's parental house. Thereafter, the first respondent filed a petition in M.C.No.32 of 2014 under Section 125 of Cr.P.C. on the file of Family Court, Tiruchirappalli for maintaining herself as well as her two children. The trial Court awarded Rs.10,000/- in favour of the first respondent and Rs.3,000/- each to the second and third respondents. Aggrieved over the maintenance amount awarded, the petitioner husband filed Crl.R.C.(MD) No.389/2015 and the wife filed Crl.R.C.(MD) No.518/2015 for not awarding the maintenance amount from the date of petition.

7. Learned counsel for the petitioner would submit that, though at the time of entertaining the revision petition, the petitioner had drawn a Demand Draft for a sum of Rs.2,00,000/- (Rupees Two laksh only) and was inclined to hand over the arrears of maintenance amount in favour of the first respondent and requested to refer the matter to Mediation Centre, the first respondent refused to receive the maintenance amount from the petitioner. On the other hand, she expressed her inclination to live along with the petitioner, though the divorce was ordered much earlier.

8. It is the further submission of the learned counsel appearing for the petitioner that in order to harass the petitioner, the first respondent did not receive the said maintenance amount and the willingness expressed by the first respondent to live with the petitioner is unreasonable, though divorce was granted in favour of the petitioner. Even after the grant of divorce, the insistence of the first respondent upon the petitioner to live along with her is unsustainable one. He further submitted that the petitioner is ready to pay any reasonable maintenance amount to his children.

9. The learned counsel appearing for the respondents would submit that though the age of the female twins is only 9 years, since both were born on the same day, even the educational expenditure itself, is more than Rs.1,00,000/-. However, the trial Court has awarded Rs.10,000/- to the first respondent wife and Rs.3,000/- each to the respondents 2 & 3 which is very reasonable. It is also submitted by the learned counsel that the trial Court failed to award the maintenance amount from the date of petition, instead granted the maintenance amount from the date of order and prayed for modification of the same.



10. I have heard the submissions made by the learned counsel appearing on either side and also perused the materials available before this Court.

11. Considering the above facts and circumstances of the case, this Court is inclined to pass the following orders:-

(i) Accordingly, **Cr1.R.C.(MD) No.518/2015 stands partly allowed**, thereby modifying the Award amount granted by the trial Court as Rs.6,000/- (Rupees Six Thousand only) each to both the children and Rs.3,000/- (Rupees Three Thousand only) to the first respondent wife. However, the grant of Award by the trial Court from the date of order is unsustainable one and it is also against the well settled proceedings. Therefore, this Court is of the considered view that the grant of Award by the trial Court is from the date of petition and not from the date of order; and

(ii) **Cr1.R.C.(MD) No.389/2015 stands dismissed** and the petitioner is directed to deposit the arrears of maintenance amount within a period of four (04) weeks from the date of receipt of a copy of this order and thereafter, continue to pay the maintenance amount on or before 5th of every English calendar month.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Sts

To

The Family Court,
Tiruchirappalli.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-10087[F] dated 04/03/2020)

Common order made in
Cr1.RC(MD) Nos.389 & 518 of 2015
03.03.2020

VB(05.05.2020) 4P 3C