



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2020

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Cr1.R.C. (MD) No.428 of 2015

and

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

Govindaraj

...Petitioner / Respondent

Vs.

1.Kaleeswari

2.Minor Sivapraveenraj

3.Minor.Sivapriyadharshini

(R-2 and R-3 represented
through their mother and
natural guardian first
respondent)

...Respondents / Petitioners 1 to 3

Prayer:- Criminal Revision is filed under Section 397 r/w Section 401 of Criminal Procedure Code, to call for the records in M.C.No.21 of 2011 on the file of the Chief Judicial Magistrate, Ramanathapuram dated 13.03.2015 and set aside the same.

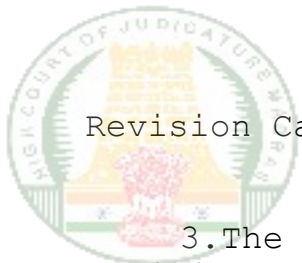
For Petitioner : Mr.P.Muthusamy

For Respondents 1 to 3 : Mr.D.Gnanasekaran

ORDER

The petitioner is the husband of the first respondent and the father of the second and third respondents.

2.The sum and substance of the case of the petitioner is that the marriage of the petitioner and the first respondent was solemnized in the year 1997 and out of the wedlock, they blessed with two children, viz., the second and third respondents herein. After the marriage, the petitioner went to foreign country for his employment at the cost of the first respondent and out of his earnings, he sent a sum of Rs.1,80,000/- to the first respondent. Thereafter, he came to India and he had illegal relationship with one Selvi and there is no compatibility between them thereby the first respondent was living separately and filed a maintenance petition under Section 125 of Cr.P.C. claiming maintenance for her children viz., the second and third respondents for a sum of Rs.5,000/- p.m. each and she did not claim any amount for her, since she was employed as Noon Meal Organizer in a Government School. After the trial, the trial Court awarded a sum of Rs.2,000/- p.m. each, totally a sum of Rs.4,000/- p.m. to the second and third respondents. Challenging the said award, the present Criminal



Revision Case has been filed.

3.The learned counsel for the petitioner would submit that the petitioner is unemployed and the first respondent is earning sufficient money and hence, the petitioner need not pay any amount to the children. He would further submit that the agriculture property and house property of the petitioner is with the first respondent and hence, he prayed for setting aside the order of the lower Court.

4.The learned counsel for the first respondent would submit that the first respondent did not claim any amount for her maintenance from the petitioner, however, the maintenance petition was filed claiming maintenance only in respect of her children for a sum of Rs.5,000/- p.m. each. But the Court below awarded a sum of Rs.2,000/- p.m. each, which is very very meagre and even then, the petitioner refused to pay the said amount, which is unreasonable. He would further submit that the said house was constructed by the first respondent out of the money sent by the petitioner. Even otherwise, the duty cast upon the petitioner to maintain his children and the refusal of maintaining the children is unsustainable and therefore, he prayed for dismissal of this revision.

5.Considering the facts and circumstances of the case, this Court is of the opinion that admittedly, the first respondent has not claimed any amount for her maintenance and she has filed a petition for maintenance only for her children for a sum of Rs.5,000/- p.m. each. But the trial Court, after considering the evidence on record, has awarded a sum of Rs.2,000/- p.m. each. It is seen that the second and third respondents have now become major. Hence, this Court do not find any error in the order of the court below.

6.In the result, this Criminal Revision Petition is dismissed. The petitioner is directed to deposit the entire arrears amount, within a period of four weeks from the date of receipt of a copy of this order, failing which, liberty is granted to the first respondent to initiate appropriate proceedings against the petitioner. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



rej2

To

1.The Chief Judicial Magistrate, Ramanathapuram .

2.The Record Keeper,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2c)

+1 CC to M/s.D.GNANASEKARAN, Advocate (SR-10133[F] dated 05/03/2020
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and

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

04.03.2020

KK/12.03.2020/ 3P- 5C