



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.R.C. [MD]No.541 of 2015

and

M.P. [MD]No.1 of 2015

WEB COPY

1.Nargese Banu

2.Minor Aksa

3.Minor Wakfa

(Petitioners 2 and 3 are represented

by the first petitioner)

: Petitioners

Vs.

S.Imthiaz

: Respondent

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C., praying to set aside the judgment dated 12.02.2015 made in C.A.NO.63 of 2014 on the file of the learned I Additional District and Sessions Judge, Thanjavur, modifying the judgment dated 27.02.2013 in C.C.No.461 of 2008 on the file of the Judicial Magistrate No.1, Thanjavur.

For Petitioners : Mr.A.Dinakaran

For Respondent : Mr.V.S.Kumaraguru

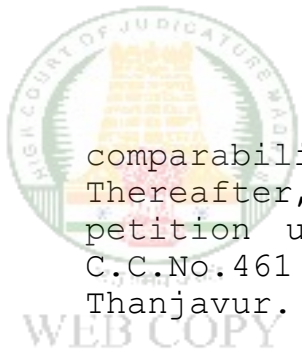
O R D E R

This Criminal Revision Case is filed to set aside the judgment dated 12.02.2015 made in C.A.NO.63 of 2014 on the file of the learned I Additional District and Sessions Judge, Thanjavur, modifying the judgment dated 27.02.2013 in C.C.No.461 of 2008 on the file of the Judicial Magistrate No.1, Thanjavur.

2.The first petitioner is the wife and the second and third petitioners are the daughters. The respondent herein is the husband of the first petitioner and the father of the second and third petitioners.

3.For the sake of convenience, the parties herein are referred to as the petitioners and the respondent.

4.The case of the first petitioner is that the marriage of the first petitioner and the respondent was performed on 06.05.2002 as per the Muslim rites and customs. Thereafter, they were blessed with one male child, by name, Amir and two female children, who are the second and third petitioners herein. Thereafter, there was no



comparability in between the first petitioner and the respondent. Thereafter, in the year 2008, the petitioners filed a maintenance petition under the Domestic Violence Act for various heads in C.C.No.461 of 2008 on the file of the Judicial Magistrate, Thanjavur.

5. On behalf of the petitioners, the first petitioner herself has examined as P.W.1 and one Paseer Ahamath Khan was examined as P.W.2 and Exs.P.1 to P.10 were marked. On behalf of the respondent, the respondent himself has examined as D.W.1 and D.W.2 to D.W.4 were examined and Ex.D.1 to Ex.D.6 were marked. After hearing both sides, the trial Court awarded an amount of Rs.5000/- in respect of the first petitioner and Rs.1000/- each in respect of the petitioners 2 and 3. Aggrieved by the said award, the respondent herein preferred the appeal before lower Appellate Court in C.A.No.63 of 2014 on the file of I Additional District Judge, Thanjavur. The learned Judge, reduced amount from Rs.5000/- per month to Rs.2,500/- in respect of the first petitioner and in respect of the second and third petitioners, the award amount is confirmed. Having not satisfied with the award passed by the lower Appellate Court, the petitioners filed the present revision petition before this Court.

6. Learned counsel appearing for the petitioners would submit that admittedly, the male child Amir is with the respondent and the two female child are with the first petitioner and during the pendency of this revision petition, the first petitioner married some other man in January 2018 and hence, she will entitle to receive the maintenance amount till January 2018 and thereafter, the first petitioner is not entitled to claim the maintenance amount. However the respondent is liable to pay the maintenance amount to the 2nd and 3rd petitioners. He would further submit that at present, the second and third petitioners are studying 8th and 9th Standard respectively and the first petitioner's husband is in huge amount for their education and other day today expenses. Hence, he prayed this Court for enhancement of the maintenance.

7. Learned counsel appearing for the respondent on instructions, would submit that the first petitioner is not entitled to receive any maintenance amount after the marriage, however, the respondent is prepared to give Rs.2,500/- as awarded by the lower Appellate Court till January 2018 and that amount may be disbursed in favour of the first petitioner. He would further submit that in respect of the second and third petitioner, the respondent is duty cast upon to pay maintenance, hence, this Court may award reasonable amount.

8. Admittedly, the second and third petitioners are entitled to receive the reasonable maintenance from their father, namely, the respondent and further, they are in care and custody of their mother, viz., the first petitioner. Hence, in view of the consent

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as well as the respondent, the following order is passed:-

"(a) the respondent is directed to deposit the maintenance amount awarded by the Lower Appellate Court from the date of petition to till the date of second marriage of the first petitioner, viz., January 2018, less than the amount already deposited.

(b) in respect of the second and third petitioners, the respondent is directed to pay Rs.4,000/- each per month totally Rs.8,000/- from the date of petition to till March 2020. On April 2020 onwards, the respondent is directed to pay Rs.7,500/- each totally Rs.15,000/- per months on or before 5th of every English Calendar month."

With the above directions, this Criminal Revision Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

skn

To

1.The I Additional District and Sessions Judge,
Thanjavur.

2.The Judicial Magistrate No.1,
Thanjavur.

3.The Record Clerk,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1cc to Mr. V. Janakiramulu, Advocate in SR No.11917 dated:16.3.2020

+1cc to Mr. V.S. Kumaraguru, Advocate, in SR 11319, dated:12.3.2020

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and

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Dated: 12.03.2020.