



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P. (MD)No.9337 of 2018 and

CRL.M.P. (MD)No.4070 of 2018

WEB COPY

U.Packianathan

... Petitioner/Revision

Petitioner/ Respondent

Vs.

1. P.Selvi

2. Minor Vignesh Kannan

3. Minor Dinesh

(R-1 is the natural guardian
for R-2&R-3)

... Respondent/Respondent/

Petitioner

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the order in Criminal Revision in Crl.R.C.No.15 of 2017 dated 02.03.2018 on the file of the IV Additional Sessions Court, Tirunelveli and consequential order in Cr.M.P.No.699 of 2016 in M.C.No.11 of 2008 dated 31.07.2017 on the file of the learned District Munsif cum Judicial Magistrate Court, Sivagiri and set aside the same as illegal.

For Petitioner

: Mr.J.Pinaygash

For R-1

: Mr.C.Mayil Vahana Rajendran

O R D E R

This criminal original petition has been directed against the order made in R.C.No.15 of 2017 dated 02.03.2018 passed by the learned IV Additional Sessions Judge, Tirunelveli.

2. Heard the learned counsel on either side.

3. The petitioner and the first respondent got married to each other. The case of the petitioner is that the first respondent was already married and without dissolving the same in the manner known to law, she got married to the petitioner herein. When the respondents filed M.C.No.11 of 2008 before the Judicial Magistrate, Sivagiri, this aspect of the matter was taken note of and maintenance was awarded only in favour of the two minor children at the rate of Rs.10,000/- per month. No maintenance was awarded to the first respondent. Aggrieved by the quantum of maintenance awarded by the learned Judicial Magistrate, the petitioner filed Crl.R.C.No.15 of 2017 before the Sessions Court. The learned Sessions Judge took note of the fact that the house purchased by the



petitioner by availing home loan was in the possession of the respondents. Hence, the maintenance amount was reduced from Rs.10,000/-each to Rs.7,000/- each. Seeking further reduction, this criminal original petition has been filed.

4. This petition is liable to be dismissed on two grounds. The first ground is that this has been filed under Section 482 of Cr.P.C. The petitioner had already filed a revision before the Sessions Court. There is bar under Section 397(3) of Cr.P.C. Recourse to Section 482 of Cr.P.C. cannot be mechanically made to circumvent the statutory bar under Section 397(3) of Cr.P.C. In this case no exceptional circumstances are present. That apart respondents 2 and 3 are only the sons of the petitioner herein. The moment they attain the age of 18, they will not be entitled to any maintenance and the impugned order will automatically work itself out. Therefore, I am of the view that no interference is called for.

5. With these observations, the criminal original petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To:

1.The IV Additional Sessions Judge,
Tirunelveli.

2.The District Munsif cum Judicial Magistrate,
Sivagiri.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.MAYILVAHANARAJENDERAN, Advocate (SR-9692[F] dated 02/03/2020)

Crl.O.P. (MD)No.9337 of 2018

02.03.2020