



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 12.03.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL. R.C. [MD]No.625 of 2016

and

CRL.M.P. [MD]No.2349 of 2020

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Krishnan : Petitioner/Respondent
Vs.

1.K.Shantha

2.Minor Savari Muneeswaran,
S/o. Krishnan,
represented by 1st respondent,
Both are residing at
C5/ Race Course Colony,
Housing Board Colony,
Madurai - 2.

: Respondents/petitioner

PRAYER: Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure praying to set aside the order passed in M.C.No.104 of 2010, on the file of the Family Court, Madurai and allow this Criminal Revision Case.

For Petitioner : Mr.J.Anandkumar

For Respondents : Mr.M.Ponniah

O R D E R

This revision petition is preferred against the order dated 28.04.2016 made in M.C.No.104 of 2010, on the file of the Family Court, Madurai, whereby the petitioner was directed to pay monthly maintenance of Rs.3,000/- to each of the respondents.

2.It is not in dispute that the marriage between the petitioner and the 1st respondent was solemnized on 09.07.2006 and out of the said wedlock, the 2nd respondent was born. However, matrimonial dispute arose between the petitioner and the 1st respondent shortly after the marriage due to which the 1st respondent stayed away at her parental house. It is further averred that the first respondent is not the legally wedded wife of the petitioner. The first respondent had already married one Rajapandian and begotten one female child. It is further stated that a false complaint has been levelled against the petitioner, resulting in filing a petition u/s.125 of Cr.P.C., by the respondents in M.C.No.104 of 2010, claiming maintenance for herself and their minor son, viz., the 2nd respondent.



3.After contest, the impugned order of maintenance was passed directing payment of monthly maintenance of Rs.3,000/- to each of the respondents. Aggrieved by the said order, the present revision case has been preferred.

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4.It is the contention of the learned counsel appearing for the petitioner that the petitioner did not dispute the birth of a male child with the first respondent. However, he disputes that the first respondent is not the legally wedded wife of him, since he denies the fact of the first respondent having obtained an exparte decree in her earlier marriage in H.M.O.P.No.54 of 2003. It is further averred that the trial Court has lost sight of the fact that the first respondent is already receiving maintenance amount out of her earlier marriage with one Rajapandian.

5.It is further submitted by the petitioner that the petitioner is aggrieved only insofar as maintenance awarded to the 1st respondent is concerned and in fact, fairly conceded that the petitioner is even ready and willing to pay any enhanced maintenance amount, as may be ordered by this Court, to the 2nd respondent/minor son of the petitioner.

6.Considering the facts and circumstances of the case, admittedly, the petitioner did not deny the marriage between him and the first respondent and he has been blessed with a male child. However, he expressed his disinterest towards payment of maintenance to the first respondent on the ground that she is already receiving maintenance from and out of her earlier marriage.

7.Insofar as the maintenance awarded to the 2nd respondent, viz., the minor son of the petitioner is concerned, the petitioner has fairly conceded that the petitioner is even acceptable to pay enhanced maintenance, as may be ordered by this Court.

8.Accordingly, this criminal revision case is disposed of in the below terms by modifying the order passed by the Judge, Family Court, Madurai, in M.C.No.104/2010 as under:-

"i) The monthly maintenance of Rs.3,000/- awarded to the 1st respondent is reduced to Rs.1,000/- [Rupees One Thousand only];

ii) The monthly maintenance payable to the 2nd respondent is enhanced to Rs.5,000/- (Rupees Five Thousand only) from Rs.3,000/-;

iii) The enhanced monthly maintenance of Rs.5,000/- to the second respondent is payable from the date of filing of the present criminal revision case.



iv) The arrears of maintenance shall be deposited by the petitioner within a period of three [3] months from the date of receipt of a copy of this order to the credit of M.C.No.104/2010, on the file of the learned Judge, Family Court, Madurai, and on such deposit, the first respondent is permitted to withdraw the said amount by producing necessary identification."

Consequently, the connected miscellaneous petition is closed. In the circumstances of the case, there shall be no order as to costs.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

MR

To

1.The Judge,
Family Court,
Madurai.

2.The Section Officer, (2 COPIES)
Criminal Section [Records],
Madurai Bench of Madras High Court,
Madurai.

+1 CC to MR.M.PONNIAH, Advocate (SR-11447[F] dated 12/03/2020)

+1 CC to MR.J.ANANDKUMAR, Advocate (SR-11632[F] dated 13/03/2020)

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