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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.10.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.OP.No.2056/2016 & Crl.MP.Nos.1024/2016 and 2874/2017

[Video Conferencing]

Senthil Kumar

... Petitioner

Versus

1.Kasthuri

2.Minor Kirubashalini

3.Minor Prasanna

... Respondents

(R2 and R3 are Rep.by their natural  
guardian/ mother, The 1<sup>st</sup> Respondent herein)

Prayer : -

Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order passed in Crl.R.C.No.39/2015 dated 15.10.2015 on the file of the I Additional Sessions Judge, Salem in confirming the order passed in M.C.No.2/2013 dated 30.03.2015 on the file of the Judicial Magistrate No.I, Attur.

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.S.Ambigapathi

ORDER

- (1) This petition has been filed under Section 482 Cr.P.C., questioning the order in Crl.RC.No.39/2015 passed by the learned I Additional District and Sessions Judge, Salem dated 15.10.2015, which had been preferred against the judgment in MC.No.2/2013 dated 30.03.2015 passed by the learned Judicial Magistrate No.1, Attur.
- (2) The petitioner was the respondent in the Maintenance Case. He is the husband of the 1st respondent herein.
- (3) The 1st respondent herein had occasion to approach the learned Judicial Magistrate No.1, Attur, under Section 125 Cr.P.C., seeking maintenance for herself, which as a matter of right, she can claim in her capacity as wife and also



for her then minor daughter who was then aged 14 years and her minor son, who was then aged 12 years.

- (4) The Maintenance Case was filed in the year 2013. It went through its normal course of trial and finally, a judgment was passed on 30.03.2015, wherein, on analysis of the evidence and the relative position in which the parties were situated, the learned Magistrate had thought that it would be apt and just if the petitioner herein was directed to pay a sum of Rs.3,000/- towards the 1<sup>st</sup> respondent/wife every month, a sum of Rs.3,000/- to the 2<sup>nd</sup> respondent/daughter till she is married and a sum of Rs.4,000/- to the 3<sup>rd</sup> respondent/son till he attains the age of majority.
- (5) This judgment and the directions therein, were questioned by the petitioner herein by filing Crl.RC.No.39/2015 which came up for consideration before the learned I Additional District and Sessions Judge, Salem, who vide order dated 15.10.2015, refused to revisit the amounts mentioned and dismissed the Revision Case.
- (6) It is under these circumstances, that the petitioner is now before this Court.
- (7) The matter has been pending before this Court for the past five years. In the meanwhile, the 3<sup>rd</sup> respondent has attained the age of majority. There has been directions given to both the learned counsel for the petitioner and the learned counsel for the respondents that statements should be given as to the amounts actually paid pursuant to the judgment of the learned Judicial Magistrate No.1, Attur, which has been confirmed by the learned I Additional District and Sessions Judge, Salem. Statements have been given. But, there appears to be material differences between the two and therefore, I would not place reliance on either one of the two statements.
- (8) The facts are simple. On and from 01.04.2015, the petitioner herein is under an obligation to pay a sum of Rs.3,000/- per month to his wife/1<sup>st</sup> respondent herein, a sum of Rs.3,000/- per month to his daughter/2<sup>nd</sup> respondent herein till she is married and a sum of Rs.4,000/- per month to his son/3<sup>rd</sup> respondent herein, till he attains the age of majority.
- (9) The son has now attained the age of majority. If Rs.4,000/- every month had not been paid and if there are arrears either, the 1<sup>st</sup> respondent in her capacity as mother and guardian of the 3<sup>rd</sup> respondent/son or the 3<sup>rd</sup>



respondent/son, since he has attained the age of majority, may take suitable action in accordance with law to recover the arrears.

(10) Similarly, the 1<sup>st</sup> respondent or the 2<sup>nd</sup> respondent herein, if there are arrears payable to them, may also initiate necessary action in accordance with law.

(11) I am not inclined to interfere with the order, but I would rather place reliance on an interim order passed by this Court wherein, the petitioner herein was directed to pay a sum of Rs.7,500/- per month in total towards maintenance. This would indicate that the petitioner should pay a sum of Rs.3,000/- to his wife and a sum of Rs.4,500/- to his daughter/2<sup>nd</sup> respondent per month, till the 2<sup>nd</sup> respondent is married.

(12) The learned counsel for the petitioner states that the petitioner can be directed to pay the said sum and also stated that he would prevail upon the petitioner to pay the said amount.

(13) In view of all these facts, the following directions are given:-

- (a) Both the orders under Revision are not disturbed.
- (b) However, in view of the earlier order/direction of this Court, the petitioner should pay a sum of Rs.7,500/- [Rupees Seven Thousand Five Hundred only] every month, namely, Rs.3,000/- to his wife / 1<sup>st</sup> respondent herein and Rs.4,500/- to his daughter/2<sup>nd</sup> respondent herein from the date of the interim order, namely, 01.02.2016 made in Crl.OP.No.2056/2016 & Crl.MP.Nos.1024 & 1025/2016.
- (c) The amount of Rs.4,500/- per month is to be paid to the 2<sup>nd</sup> respondent/daughter till she is married.
- (d) The petitioner had an obligation to pay a sum of Rs.3,000/- every month to his son/3<sup>rd</sup> respondent herein till he attains majority and if there is any default, the 3<sup>rd</sup> respondent/son is at liberty to approach the Court in manner known to law.
- (e) The 1<sup>st</sup> and 2<sup>nd</sup> respondents are also at liberty to approach the Court in manner known to law if there is any default in payment of maintenance amount to them.



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(14) With the above directions, the Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

AP

To

1. The I Additional Sessions Judge, Salem.
2. -DO THRO Person Sessions Judge, Salem.
3. The Judicial Magistrate No.I, Attur.
4. -do thro The Chief Judicial Magistrate,Salem.

+lcc to Mr.R.Jayaprakash, Advocate, S.R.No.56327

+lcc to Mr.S.Ambigapathi, Advocate, S.R.No.56440

Crl.OP.No.2056/2016

KSM(CO)  
CT 08/12/2021