

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2021

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.166 of 2021 and
Crl.M.P.No.3594 of 2021

S.Maharaja

... Petitioner

Vs.

1.M.Sangeetha

2.M.Arjun,

Minor, Rep. by
(1st Respondent is natural guardian
mother of the 2nd respondent)

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order passed by the Judicial Magistrate Court, Thiruvottiyur, Thiruvallur District in M.C.No.26 of 2016, dated 13.11.2019.

For Petitioner : Mr.E.Udayachander

For Respondent : M/s.A.Prabhakaran

ORDER

The petitioner is the husband and the respondents are his wife and minor son. The respondents have filed a petition under Section 125 Cr.P.C., for monthly maintenance in M.C.No.26 of 2016 before the learned Judicial Magistrate, Thiruvottiyur. The learned Judicial Magistrate, Thiruvottiyur, by order, dated 13.11.2019, directed the petitioner to pay Rs.10,000/- to the wife and Rs.5,000/- to his minor son as monthly maintenance. Challenging the said order passed by the learned Judicial Magistrate, Thiruvottiyur, the husband/petitioner is before this Court.

2.The learned counsel for the petitioner would submit that the petitioner has no grievance regarding the monthly maintenance ordered to the 2nd respondent/minor child. The only grievance is that the learned Judicial Magistrate, Thiruvottiyur, without considering that the 1st respondent is an I.T graduate

and she is earning more than the petitioner, ordered monthly maintenance of Rs.25,000/- to the 1st respondent/wife. The learned counsel for the petitioner would further submit that the learned Judicial Magistrate failed to consider that the petitioner is working in a private company and earning monthly salary of Rs.25,000/- only. Therefore, the order passed by the learned Magistrate is liable to be set aside and the revision is to be allowed.

3.Heard the learned counsel for the petitioner and perused the materials available on record.

4.The relationship of the parties is not in dispute, the paternity of the child is also not in dispute and the parties are living separately is also not in dispute. The only dispute is with regard to quantum of maintenance ordered by the learned Judicial Magistrate, which is disproportionate. Therefore, the petitioner/husband has filed the above revision against the monthly maintenance.

5.A perusal of the records, the learned Judicial Magistrate while deciding the maintenance case, has found that the petitioner is earning Rs.25,000/- per month and despite having sufficient means, the petitioner deliberately failed to maintain the respondents. Though the learned counsel for the petitioner submits that the 1st respondent is also an earning, he has not produced any document to substantiate the same and he also submits that the petitioner is only earning Rs.25,000/- and having aged parents and he has also to pay the house rent per month. However, as per the guidelines of the Hon'ble Supreme Court, the petitioner has not filed any affidavit to show his income proof and further, it is a recent development of the guidelines of the Hon'ble Supreme Court that the wife is entitled for the monthly maintenance par with the status of the husband.

6.Therefore, under these circumstances of the case, the learned Judicial Magistrate ordered Rs.10,000/- to the wife and Rs.5,000/- to the minor son are very reasonable.

7.While deciding the revision, this Court need not re-appreciate the entire evidence and materials as appellate Court. While dealing the revision, the Court has to see whether any perversity in the evidence and materials. A reading of the entire materials, this Court does not find any perversity or illegality in the order passed by the learned Judicial Magistrate, Thiruvottiyur in M.C.No.26 of 2016, dated 13.11.2019 and there is no merit consideration in the

submissions made by the learned counsel for the petitioner. Hence, the Criminal Revision is liable to be dismissed and it is, accordingly, dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

The Judicial Magistrate,
Thiruvottiyur.

+1cc to Mr.E.Udayachander, Advocate SR.No.18346

+1cc to Mr.A.Prabhakaran, Advocate SR.No.17682

Cr1.R.C.No.166 of 2021

PM(CO)
GMY(06/07/2021)



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