

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.03.2021
C O R A M
THE HONOURABLE MR.JUSTICE P.VELMURUGAN
Crl.R.C.No.80 of 2021

Azam (Minor 2 years old male)
S/o.R.Ansar,
Minor represented by his mother,
And Natural Guardian by name Shabana,
Residing at No.4/417, Arumugam Nagar,
Venmanampudhur, Kadambathur,
Thiruvallur District - 631 203. Petitioner /Petitioner

Vs.

Mr.R.Ansar Rahim Respondent/Respondent

PRAYER: Criminal Revision Case filed under 397 r/w 401 of Cr.P.C. to enhance the maintenance amount passed in M.C.No.12 of 2019, dated 21.11.2020, on the file of the Family Court, Tiruvallur, by enhancing the maintenance from Rs.5,000/- to Rs.15,000/-.

For Petitioner : Mr.T.Nixon

For Respondent : Mr.R.Kannabiran

O R D E R

This Criminal Revision Case has been filed by the petitioner/minor son in M.C.No.12 of 2019, before the Family Court, Tiruvallur, dated 21.11.2020, seeking enhancement of maintenance from Rs.5,000/- to Rs.15,000/-.

2. The petitioner is the minor son, represented by his mother and the respondent is the father. The respondent lived with one Shabana, the mother of the petitioner herein and due to above relationship, the said Shabana gave birth of a male child, the petitioner herein, on 01.02.2019 and thereafter, the respondent lived with the petitioner for two months and subsequently, the respondent deserted the petitioner without any reason. Now, the petitioner is living with his grandmother at Kadambathur along with the guardian of the petitioner, viz., Shabana. Hence, the petitioner-Minor Azam, represented by his mother, has filed a petition in M.C.No.12 of 2019, before the Family Court, Tiruvallur, seeking maintenance of a sum of Rs.15,000/- per month. The learned Judge, Family Court, Tiruvallur, partly allowed the petition and fixed the

maintenance as Rs.5,000/- per month. Not being satisfied with the order passed by the learned Judge, Family Court, in M.C.No.12 of 2019, the petitioner/minor son is before this Court.

3. The learned counsel for the petitioner would submit that the learned Judge failed to consider the minor petitioner's daily basic needs and medical expenses for a two year old baby and also did not consider the fact that the prices of the necessities had gone up and they could not make both ends meet with the small amount. It is further contended that the learned Judge failed to consider the income of the respondent mentioned in the petition that the respondent is having a own auto without any loan and he is earning Rs.40,000/- per month. Hence, the learned counsel for the petitioner seeks enhancement of the compensation ordered by the learned Judge, Family Court, Tiruvallur, from Rs.5,000/- to Rs.15,000/-.

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

5. Perusal of the materials available on record discloses that the respondent and lived with the mother of the petitioner herein, viz., Shabana from May 2017 onwards and due to above relationship, the petitioner was born on 01.02.2019. After the birth of the petitioner herein, the respondent deserted the petitioner without any reason. Since the mother felt it difficult to take care of her son, she filed a petition under Section 125 of Cr.P.C., on behalf of her minor child, before the learned Judge, Family Court, Tiruvallur.

6. On a careful perusal of the records, it is noted that the petitioner has not produced any oral or documentary evidence to show the exact income of the respondent. Therefore, in the absence of the same, considering the facts and circumstance, the learned Judge awarded Rs.5,000/- per month as maintenance, which is reasonable. Therefore, this Court does not find any materials to enhance the amount.

7. In view of the above, the respondent/father is directed to pay or deposit the entire arrears of maintenance in accordance with the order of the Family Court, Tiruvallur in M.C.No.12 of 2019, dated 21.11.2020, in a lumpsum within a period of two months from the date of receipt of a copy of this order and thereafter, continue to pay the maintenance amount every month without fail, failing which, the petitioner/minor son, represented by her natural guardian, viz., Shabana, shall have the liberty to bring it to the notice of the learned Judge,

Family Court, Tiruvallur, and the learned Judge, Family Court, Tiruvallur is directed to execute the warrant and proceed against the respondent/father in accordance with law and ensure that the amount should be reached to the petitioner/minor son within a reasonable time.

8. With the above observation, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

r n s

To
The Judge,
The Family Court,
Tiruvallur.

+1cc to Mr.Y.PARTHASARATHY, ADVOCATE, SR.NO. 19574

+1cc to Mr.R.KANNABIRAN, Advocate, SR.NO. 20313

Cr1.R.C.No.80 of 2021

AAB(CO)
KKN 22.04.2021



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