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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2021

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.847 of 2015

Palanisamy

... Petitioner/Respondent

-Vs-

1. Thangamani

2. Minor Jamuna

... Respondents/Petitioners

Prayer: Criminal Revision is filed under Section 125 of the Criminal Procedure Code, to call for the records in M.C.No.24 of 2014 on the file of Family Court, Erode and to set aside the same in so far as sthe petitioner is concerned.

For Petitioner : Mr.C.E.Pratap

For Respondent : Mr.C.Prakasem

O R D E R

This Criminal Revision is filed to call for the records in M.C.No.24 of 2014 on the file of Family Court, Erode and to set aside the same in so far as the petitioner is concerned.

2. The case of the prosecution is that the marriage of the petitioner and the first respondent was performed in the year 1996. Thereafter, due to wedlock, they were blessed with a female child/Second respondent. However, thereafter, there was no compatibility in between them. While second respondent studying 8th standard, first respondent went to her parent's house and thereafter on influence of the petitioner's mother, the petitioner did not take care of the respondents. Thereby, the respondent filed a maintenance case before the Family Court, Erode, Erode District claiming Rs.5000/-each as monthly maintenance, after adjudication an amount of Rs.2,000/- was awarded for the first respondent and Rs.2,500/- was awarded for the second respondent. The present Criminal Revision Petition is filed against the said order by the Family Court, Erode, Erode District.



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3. The learned counsel for the petitioner submits that the petitioner is only earning a very meagre amount and is not able to pay the amount awarded by the trial Court. Therefore, the learned counsel prays that the order of trial Court granting maintenance should be reversed.

4. On the above contention, this Court heard the learned counsel for the respondent, who justified the order passed by the trial Court and prayed that the same may be confirmed.

5. I have heard the learned counsel for the petitioner as well as respondents.

6. The fact in the present case is that the petitioner married the respondent and due to non-compatibility, dispute arose between the petitioner and the respondent and they got separated. In the petition for maintenance, an amount of Rs.4,500 (Rs.2,000 + Rs.2,500) was awarded in favour of the respondents, which is fact in issue before this Court.

7. It is to be pointed out that the first respondent is still the wedded wife of the petitioner and the 2nd respondent is the child born out of the wedlock with the 1st respondent and, therefore, the petitioner is duty bound to maintain them. A duty is cast upon the petitioner to maintain the respondents. The petitioner cannot shirk his responsibility to maintain the respondents, wherever they be, so long as she is the legally wedded wife of the petitioner and the child is always the child of the petitioner. Therefore, the court below directing payment of maintenance to the respondents to be paid by the petitioner cannot be found fault with.

8. Coming to the quantum of maintenance awarded by the trial Court, it is evident from the records that though maintenance was claimed at Rs.5,000/- for each of the respondent per month, however, considering the petitioner's paying ability and the necessity to maintain himself and his parents, the trial court had ordered only a sum of Rs.2,000/- to the first respondent and Rs.2,500/- to the 2nd respondent. The cost of living is to be the index for the purpose of deciding the quantum of maintenance. It is to be pointed out that the cost of living in the present day scenario is spiralling upwards to such an extent that to maintain a person, the sum awarded by the trial court is very meagre and, by no stretch of imagination, could be termed to be high or exorbitant. The court below has taken into consideration all the aforesaid aspects and has awarded maintenance at Rs.2,000/- and Rs.2,500/- to the 1st and the 2nd respondent and this Court finds no reason to interfere with the award of maintenance as ordered by the court below.



9. In the result, this Criminal Revision Case fails and the same is dismissed.

Sd/-
Assistant Registrar(CS-VIII)

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Sub Assistant Registrar

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To

The Family Court Judge,
Erode,
Erode District.

+lcc to Mr.Prakasam, Advocate, S.R.No.47347
+lcc to Mr.Pratap, Advocate, S.R.No.47086

Cr1.R.C.No.847 of 2015

MG(CO)
CB(13/10/2021)