

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.554 of 2016

1.S.B.Gowshia Begum
2.Bismil @ Baseith Ali

... Petitioners

Vs.

A.Basheer Ahamed Basha

... Respondent

Prayer:

Petition filed under Sections 397 and 401 of Criminal Procedure Code, seeking to set aside the order dated 08.12.2015 passed in M.C.No.127 of 2012 on the file of the Principal Family Court at Coimbatore, in so far as it relates to the inadequacy of the quantum of the maintenance so awarded is concerned, by allowing this criminal revision case.

For Petitioners : Mrs.Elizabeth Rani
for M/s.S.Subbiah

For Respondent : M/s.P.Saravana Sowmiyan

O R D E R

The petitioner has filed this petition seeking to set aside the order dated 08.12.2015 passed in M.C.No.127 of 2012 by the Principal Family Court at Coimbatore, in so far as it relates to the inadequacy of the quantum of the maintenance so awarded is concerned, by allowing this criminal revision case.

2.The facts of the case is that the marriage between the first petitioner and the respondent was solemnized on 28.02.1996 at Madurai and out of the wedlock, the second petitioner was born to them. Thereafter, there was no compatibility inbetween them and the petitioners filed M.C.No.127 of 2012 under Section 125 of Cr.P.C., before the learned Principal Family Judge, Coimbatore, claiming a sum of Rs.15,000/- each per month as maintenance. After adjudication, the Trial Court awarded a sum of Rs.5,000/- each per month to the petitioners towards maintenance. Aggrieved by the same, the petitioners have filed

this revision seeking enhancement of maintenance amount.

3.The learned counsel appearing for the petitioners submitted that when the maintenance petition was filed, the respondent was working in the Bank of Baroda and was earning more than Rs.45,000/- per month, however, the Trial Court awarded only a sum of Rs.5,000/- each per month in favour of the petitioners which is a very meagre amount and prayed to enhance the maintenance amount.

4.The learned counsel appearing for the respondent submitted that the marriage was dissolved by the Makkah Masjid Shariath Council on 09.05.2005 and thereafter the respondent performed second marriage and out of the said wedlock, he is blessed with one male child. The learned counsel further submitted that the respondent filed suit in O.S.No.13 of 2007 before the learned Principal Family Judge, Coimbatore, seeking to declare that the first petitioner is not his spouse and the said suit was dismissed on 30.07.2010 and challenging the same, the respondent has filed appeal suit in A.S.No.SR6021 of 2013 before this Court and the same is pending.

5.The learned counsel appearing for the respondent further submitted that the respondent is going to retire within a year and further submitted that the petitioners are residing in the house owned by the respondent and a portion of the same is rented out to third parties and they are earning income from it and hence, the amount awarded by the Trial Court is just and reasonable one, which needs no interference.

6.The facts of the case and the relationship between the parties is not disputed. The respondent is working in a Bank and is earning more than Rs.45,000/- per month. Hence, considering the cost of living at the time of maintenance case petition as well as the present cost of living, the amount awarded by the Trial Court is not adequate even though the petitioners are residing in own house. Hence, this Court is inclined to enhance the amount awarded in favour of the petitioners from a sum of Rs.5,000/- each per month to a sum of Rs.7,500/- each per month, however, insofar as the second petitioner is concerned, the award amount shall be paid till the date he attained the age of majority.

7.In view of the above, the amount awarded by the Principal Family Court at Coimbatore, in the order dated 08.12.2015 passed in M.C.No.127 of 2012, is modified as follows:

'The respondent is directed to pay a sum of Rs.7,500/- per month to the first petitioner from the date of maintenance case petition till her life time

and a sum of Rs.7,500/- per month to the second petitioner from the date of maintenance case petition till he attained the age of majority.'

8.The respondent is directed to deposit the entire arrears amount as per the modified award amount to the credit of M.C.No.127 of 2012 before the Principal Family Court at Coimbatore, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. Since it is represented that the respondent is about to retire from service within a year, respondent is granted liberty to file petition seeking modification under Section 127 of Cr.P.C.

9.This revision is accordingly allowed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Family Court at
Coimbatore.

Copy to:

The Section Officer,
Criminal Section,
High Court,
Madras.

+1cc to M/s.Elizabeth Ravi, Advocate Sr No.45734

Cr1.R.C.No.554 of 2016

PPA (CO)
PR (13/10/2021)