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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.R.C.No.621 of 2016

And

Cr1.M.P.No.4348 of 2016

R.Manivannan

... Petitioner/Respondent

Vs.

1.Soundarya Lakshmi

2.Minor.M.Mogulram

Represented by first respondent/ Mother

... Respondents/Petitioners

Prayer:

Petition filed under Section 397 r/w 401 of Criminal Procedure Code, seeking to call for the records in M.C.No.38 of 2012 and set aside the order dated 03.11.2015 on the file of the Judicial Magistrate, Tambaram.

For Petitioner : Mr.V.Vijayakumar
For Respondents : Mr.K.P.Sathish

O R D E R

The petitioner has filed this petition seeking to call for the records in M.C.No.38 of 2012 and to set aside the order dated 03.11.2015 on the file of the learned Judicial Magistrate, Tambaram.

2.The facts of the case is that the marriage between the petitioner and the first respondent was solemnized on 27.08.1998 at Thanjavur and after marriage there was matrimonial dispute inbetween them and out of the wedlock the second respondent was born and even thereafter the attitude of the petitioner did not change and the petitioner driven out the respondents from the matrimonial home. Thereafter since the first respondent was not able to maintain herself and the second respondent, she filed M.C.No.38 of 2012 before the learned Judicial Magistrate, Tambaram, seeking maintenance of Rs.25,000/- per month on the



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ground that the petitioner is working in the Indian Oil Corporation and earning a sum of Rs.80,000/- per month and after adjudication, the trial Court awarded a sum of Rs.10,000/- each towards maintenance in favour of the respondents. Challenging the same, the petitioner has filed this revision.

3.The learned counsel appearing for the petitioner submitted the petitioner after various deductions in salary is receiving only a sum of Rs.21,000/- per month and he has to take care of his age old father and his brother who is an un-married kidney patient. Hence, he is not in a position to pay maintenance as ordered by the trial Court and prays to set aside the order of the trial Court.

4.The facts of the case and the relationship between the parties is not disputed. Before the trial Court, the first respondent has established the salary received by the petitioner by marking Ex.P4 petitioner's salary statement. Though the petitioner claim that after various deductions in salary, he is receiving only a sum of Rs.21,000/- per month, he has not substantiated the same by way of any evidence before the trial Court or before this Court. He has simply marked School fee receipt, IV Standard School transportation receipt, V Standard School transportation receipt, first respondent's R.C. Book and medical receipt as exhibits before the trial Court. Though the petitioner claims that he has to take care of his age old father and his brother who is an un-married kidney patient, however, the issue was not properly established before the trial Court while adducing evidence.

5.In the present case, the respondents filed maintenance case, seeking maintenance of Rs.25,000/- per month on the ground that the petitioner is working in the Indian Oil Corporation and earning a sum of Rs.80,000/- per month and the trial Court elaborately discussed the issue and observed that the first respondent is not employed anywhere and she is home maker and she has to take care of the second respondent and has to spend for the second respondent's educational expenses and other expenses and arrived at the conclusion and awarded a sum of Rs.10,000/- per month towards maintenance in respect of the first respondent and a sum of Rs.10,000/- per month towards maintenance in respect of the second respondent till he attain the age of majority. Considering the present cost of living, the amount awarded by the trial Court is just and reasonable. Hence, the order dated 03.11.2015 made in M.C.No.38 of 2012 passed by the learned Judicial Magistrate, Tambaram, warrants no interference.

6.This revision is accordingly dismissed. The petitioner is directed to deposit the entire arrears amount, less the amount



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already deposited, if any, as expeditiously as possible.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate, Tambaram.

2. The Chief Judicial Magistrate, Kancheepuram.

Copy to:

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

+1cc to Mr.V.Vijaya Kumar, Advocate SR.No. 45012

+1cc to Mr.I.Bobby Portia, Advocate SR.No. 45132

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MG(CO)

B.VC(07.10.2021)