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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NO.227 OF 2021

1. S.Dhivya
W/o, Prabu

2. Minor Harnith
S/o, Prabu

Rep. By Mother and Natural Guardian
S.Dhivya/1st Petitioner

... Petitioners

Versus

M.Prabu,
S/o, Muniappan

... Respondent

PRAYER:-

Criminal Revision Petition filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the judgment dated 21.08.2020 made in M.C.No.6 of 2017 on the file of the Judicial Magistrate, Harur and enhance the maintenance amount.

For Petitioners : Mr.D.Rameshkumar

For Respondent : Mr.K.Sivakumar

ORDER

This Criminal Revision Petition has been filed to set aside the judgment dated 21.08.2020 passed in M.C.No.6 of 2017 on the file of the Judicial Magistrate, Harur and to enhance the maintenance amount.

2. First petitioner is the wife and the second petitioner is the son.

3. The petitioner filed a maintenance case before the Judicial Magistrate, Harur in M.C.No.6 of 2017 against the



respondent/husband, claiming Rs.10,000/- as maintenance. The said petition was decided by the learned Magistrate and directed the respondent to pay Rs.5,000/- to the first petitioner and Rs.8,000/- to the second petitioner as maintenance. Challenging the said order of maintenance, the petitioners have filed the present revision petition before this Court for enhancement of the maintenance amount.

4. The learned counsel for the petitioner would submit that the respondent already a divorcee and got married with the first petitioner in the year 2010. They lived together only for three months. Thereafter, the respondent shown his original colour and demanded dowry and not satisfied with the sridhana articles provided by the first petitioner's parents. Hence, the respondent denied the conjugal rights of the first petitioner. The respondent sent the first petitioner for delivery to her parents home and he did not turn to see her. He neither cared about her nor paid any amount for her maintenance. He did not see even his child. Therefore, no other option, the petitioner has filed the maintenance case. Further, he would submit that the respondent is working as a teacher and he was getting a salary more than Rs.35,000/- at the time of marriage and even at the time of evidence also, he was getting a salary of Rs.76,000/-. The learned Magistrate failed to consider the above facts and also the fact that the marriage between the first petitioner and the respondent is not denied, paternity of the child/second respondent born to the petitioner is also not disputed.

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

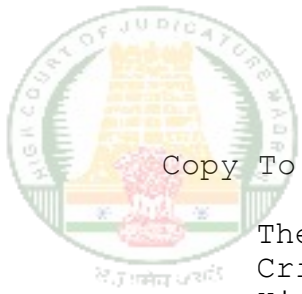
6. Since the relationship between the parties is not in dispute and the employment of the respondent and his salary are also not in dispute, the learned Magistrate should have ordered the maintenance as prayed for by the petitioners. However, the learned Magistrate directed the respondent to pay only Rs.5,000/- and Rs.8,000/- respectively to the first and second petitioners. The petitioners are not having sufficient means to maintain themselves, where as, the respondent is working as a teacher and having sufficient means to maintain his wife and child. The Magistrate failed to appreciate the economical condition of the respondent and the pathetic situation of the petitioners and ordered the maintenance amount which is a only a meagre amount, which warrants interference.

7. Considering the fact that the wife with an infant child taking care of herself without any means and the respondent husband is having sufficient means and working as a teacher and



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Copy To:-

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

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+1cc to Mr.D.Rameshkumar, Advocate, S.R.No.54770

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SRA (CO)
PBS/28/12/2021