

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.496 OF 2019
CRL.M.P.NO.6872 OF 2019

V.Sridharan

... Petitioner/Respondent

Vs.

S.Devikarani

... Respondent/Petitioner

Prayer:-

Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C to set aside the order dated 20.12.2018 passed in M.P.No.253 of 2013 in M.C.No.182 of 1993 on the file of the V Additional Family Court, Chennai and to allow the above Criminal Revision Case.

For Petitioner : Mr.K.Hemanathan
for M/s.K.Subbu Ranga Bharathi

For Respondent : Mr.S.Thiru Saravanan

O R D E R

This Criminal Revision Case has been filed against the order dated 20.12.2018 passed in M.P.No.253 of 2013 in M.C.No.182 of 1993 on the file of the V Additional Family Court, Chennai.

2. The petitioner is the husband. The respondent is the wife. The respondent initially filed a case in M.C.No.182 of 1993 under Section 125 Cr.P.C seeking maintenance to herself and her son and obtained maintenance amount. Thereafter, the maintenance amount was enhanced periodically, in the year 2007, i.e. Rs.2,500/- per month. Subsequently, the respondent/wife filed a petition in M.P.No.253 of 2013 under Section 127 Cr.P.C for further enhancement of the amount. The learned Judge, after considering the entire materials enhanced the amount from Rs.2,500/- to Rs.5,000/- per month as maintenance and directed the petitioner/husband to pay the same from the date of the petition viz., 27.03.2013 and also directed to pay the said maintenance amount on or before 5th day of every English Calendar Month. Challenging the said order, the petitioner/husband is before this Court.

3. The learned counsel for the petitioner would submit that

the petitioner is a physically challenged person and he was working in the National Productivity Council under the Ministry of Commerce and Industry, Government of India in a non-pension scheme and attained the age of superannuation on 31.01.2014. Now, the petitioner is under the care of his second wife and he has no independent income. Though the respondent/wife has stated that the petitioner is having own house and getting rent from the house, the same is false and the petitioner has no independent income or pension. Initially, the maintenance amount was awarded in favour of the respondent and her son, subsequently, his son completed his studies from the maintenance amount paid by the petitioner/husband and he is now in employment and hence, he is affordable to maintain his mother/respondent. The petitioner/husband is not having sufficient means to pay Rs.5,000/- per month as maintenance to the respondent/wife and hence, this revision.

4.The learned counsel for the respondent/wife would submit that Rs.2,500/- was awarded in the year 2007 and thereafter, considering the cost of living, the respondent/wife filed a petition seeking enhancement of the maintenance amount and the same was enhanced in the year 2013. He further submitted that after considering the entire materials, the learned V Additional Principle Judge, V Additional Family Court, Chennai, enhanced the maintenance amount, which is a reasonable one and hence, the present revision is liable to be dismissed.

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

6.Admittedly, the petitioner is the husband and the respondent is the wife and they got divorce and living separately. As per Section 125 Cr.P.C, the respondent/wife is entitled for maintenance until she gets second marriage. In the case on hand, earlier the respondent/wife filed maintenance case under Section 125 Cr.P.C and got maintenance amount of Rs.2,500/- per month. After ten years, the respondent/wife filed petition for enhancement of the maintenance amount under Section 127 Cr.P.C and the learned V Additional Principle Judge enhanced the maintenance amount from Rs.2,500/- to Rs.5,000/- per month. At the time of filing the petition under Section 127 Cr.P.C, the petitioner was working in the Central Government, under non-pension scheme, thereafter, he was retired from service in the year 2014. The petitioner/husband was working under non-pension scheme and he has no independent income to lead his life.

7. Considering the above stated facts and circumstances,

this Court is inclined to modify the order dated 20.12.2018 passed by the learned V Additional Principal Judge, Chennai and hence, the maintenance amount of Rs.5,000/-p.m. is modified to Rs.3,500/- p.m.

8. The petitioner/husband is directed to pay the entire arrears of monthly maintenance as directed by the learned V Additional Principal Judge, V Additional Family Court, Chennai in M.P.No.253 of 2013 in M.C.No.182 of 1993 dated 20.12.2018, failing which, the learned Judge is directed to execute the order in accordance with law.

9. With the above modification, this Criminal Revision Case is partly allowed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ms

To

The V Additional Principal Judge,
V Additional Family Court,
Chennai.

+2cc to Mr.S.Thiru Saravanan, Advocate, S.R.No.4406

Cr1.R.C.No.496 of 2019

KK(CO)
CS/17/02/2021

सत्यमेव जयते

WEB COPY