

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.501 of 2019 &
Crl.M.P.No.6909 of 2019

Prasad

... Petitioner

Vs.

Devi

... Respondent

PRAYER: Criminal Revision Case filed under 397 r/w 401 of Cr.P.C. to set aside the order passed by the learned Family Court, Vellore in F.C.M.No.81 of 2017, dated 28.01.2019.

For Petitioner : No appearance

For Respondent : No appearance

O R D E R

This Criminal Revision Case has been filed to set aside the order made in F.C.M.C.No.81 of 2017, dated 28.01.2019, on the file of the learned Judge, Family Court, Vellore.

2. The petitioner is the husband and the respondent is the wife. The respondent filed a petition in F.C.M.C.No.81 of 2017, before the Family Court, Vellore, seeking maintenance from her husband. The learned Judge, Family Court, Vellore, partly allowed the petition and fixed the maintenance as Rs.5,000/- per month. Against the said order, the petitioner / husband preferred this Revision.

3. When the matter came up for hearing on 11.01.2021, there was no representation and hence, the matter was directed to be listed under the caption 'for orders' today. Even, today, there was no representation on either side. Since the Revision is arising out of the order passed by the learned Judge, Family Court, Vellore, under Section 125 of Cr.P.C., this Court is not inclined to adjourn the matter further, and however, inclined to

dispose the matter on merits on available records.

4. The main ground raised by the petitioner in this Revision, though in his deposition clearly stated that he is doing coolie work and getting Rs.250/- per day, and due to accident, he sustained injury and could not earn properly, monthly maintenance of Rs.5,000/- fixed by the learned Judge is excessive and the same is liable to be set aside.

5. The point for consideration is as to whether there is any perversity or non-application of law on the part of the Magistrate in awarding maintenance, as aforesaid.

6. From the materials available on record, it is seen that the petitioner has stated that he is doing coolie work and getting Rs.250/- per day as salary. Further, the petitioner has also stated that he met with an accident and sustained injuries in the leg and was taking treatment, and in order to prove the same, he had also marked Exs.R4, however, the same was not taken into consideration by the learned Judge.

7. Though the learned Judge had observed that the petitioner by doing tiles work can earn Rs.2,500/- per week, considering the fact that the petitioner had sustained injury, and to prove the same, he had also marked Ex.R4-discharge summary. However, the same was not appreciated by the learned Judge, while awarding maintenance and therefore, this Court is of the view that the maintenance awarded by the learned Judge, is slightly on the higher side. Hence, this Court scales down the monthly maintenance awarded from Rs.5,000/- to Rs.4,000/- as it is found to be appropriate in the instant case. This Court directs the revision petitioner herein to pay the entire arrears of maintenance, as per this Court's findings, from the date of filing the maintenance in F.C.M.C.No.81 of 2017, within a period of two months. Subsequently, the revision petitioner has to pay a sum of Rs.4,000/- as monthly maintenance on or before 10th of every succeeding English Calendar month regularly.

8. In the result, the Criminal Revision Petition is partly allowed. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

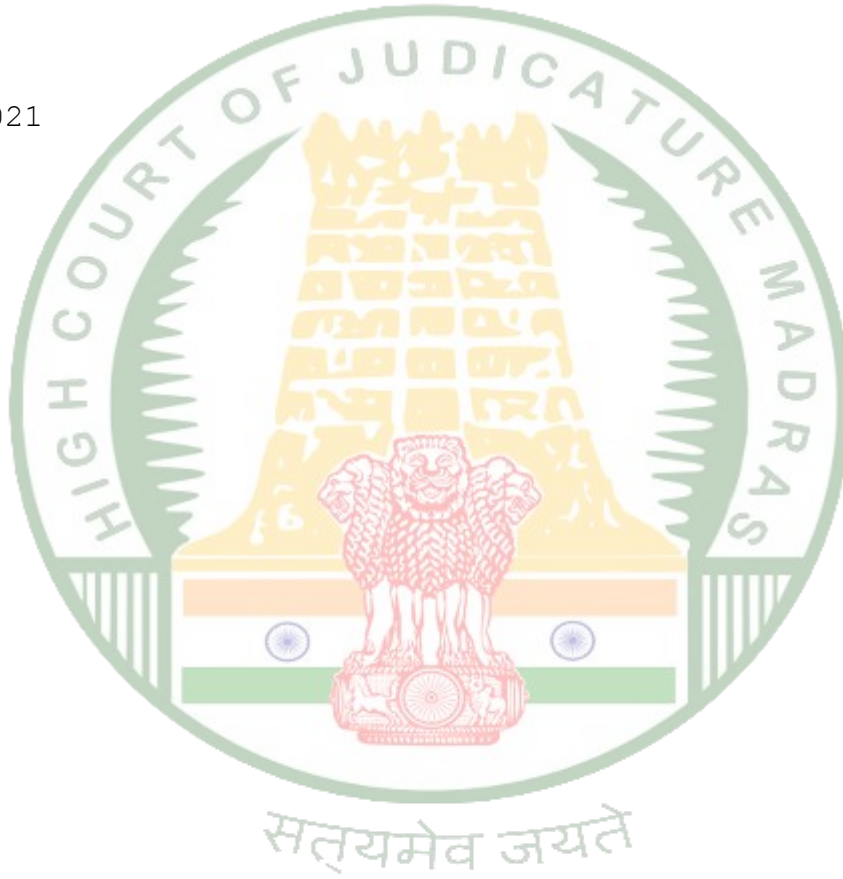
r n s

To

The Family Court,
Vellore.

Crl.R.C.No.501 of 2019 &
Crl.M.P.No.6909 of 2019

rsv(co)
aa04/03/2021



WEB COPY