



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.457 of 2021
and
Crl.M.P.No.7510 of 2021

M.Arullappan

...Petitioner

Vs.

1.M.Varalakshmi

2.A.Teeja Shree

(Represented by her Mother and Natural
Guardian of the 1st Respondent)

...Respondents

PRAYER: This Criminal Revision is filed under Section 397 and 401 of Criminal Procedure Code, to call for the records of the Maintenance Case No.12 of 2019 disposed by the Learned Judicial Magistrate Court at Vaniyambadi in Vellore District at present Thirupattur District and to set aside the order dated 09.02.2021 passed in the Maintenance Case No.12 of 2019 on the file of the said Court by allowing this Revision Petition.

For Petitioner : Mr.A.L.Rajaraman

O R D E R

The present criminal revision has been filed to call for the records of the Maintenance Case No.12 of 2019 disposed by the learned Judicial Magistrate Court at Vaniyambadi in Vellore District at present Thirupattur District and to set aside the order dated 09.02.2021 passed in the Maintenance Case No.12 of 2019 on the file of the said Court by allowing this Revision Petition.

2. The petitioner is the husband, the 1st respondent is the wife and the 2nd respondent is the minor daughter. The 1st respondent filed a petition in M.C.No.12 of 2019 under Section 125(1) (a)2(b) of Criminal Procedure Code (hereinafter after



referred to as 'Cr.P.C., for short) before the learned Judicial Magistrate, Vaniyambadi, for maintenance.

3. After enquiry, the learned Judicial Magistrate partly allowed the petition and awarded monthly maintenance of Rs.12,000/- to the 1st respondent and Rs.6,000/- to the 2nd respondent. Apart from that, awarded a sum of Rs.75,000/- per year for educational expenses of the 2nd respondent. Challenging the said order, the petitioner/husband has filed the present revision before this Court.

4. Learned counsel for the petitioner would submit that the petitioner is always ready and willing to live with the 1st respondent. The 1st respondent/wife voluntarily left the matrimonial home and residing with her parents. She was also working as an Assistant Professor and she is qualified to work and earned money and she is suppressed the fact and filed the above said petition before the learned Magistrate for maintenance. Further, he would submit that as per the guidelines of the Hon'ble Supreme Court, she has not filed any affidavit to show her income proof. Therefore, the learned Magistrate failed to look into all the facts. The 1st respondent sent notice to the petitioner and also he gave a reply and asked the 1st respondent to come along with the 2nd respondent to live in the matrimonial home and despite that, she has not taken any effort to come and live with him. For the purpose of getting maintenance, she filed the said petition. As a dutiful wife, she has not done the spouse obligations to her husband and therefore, under these circumstances, the order passed by the learned Magistrate is liable to be set aside.

5. The matter is coming for admission. Heard the learned counsel for the petitioner and perused the materials available on record.

6. The petitioner is the husband, 1st respondent is the wife and 2nd respondent is the minor daughter. The marriage between the petitioner and the 1st respondent was solemnized on 20.05.2013. Now, the respondents are not residing with the petitioner. The petitioner was working as B.T. Teacher and getting a salary of Rs.40,000/- per month and further, he is getting more than Rs.1,00,000/- in total. The evidence and documentary proof shows that the petitioner is getting a salary of Rs.71,036/-, after deduction is Rs.63,472/- as salary.

7. Though initially the 1st respondent was working as Assistant Professor in the Department of Mathematics in Islamiah Women's Arts and Science College at Vaniyambadi in Vellore District, subsequently, she resigned the job on 31.01.2020 and she is not working in the college and in this regard, a bonafide



certificate has also been produced. Even otherwise, the learned counsel for the petitioner would submit that he has produced a copy of the acquittance register, but even on a perusal of the said register, it is seen that she was getting only Rs.8,000/- per month, whereas, the petitioner is getting Rs.63,472/-.

8. Subsequently, even from the year 2020, she is not working and she is not employed and the petitioner has not produced any documents to prove that on the date of passing of the order, the 1st respondent was working and getting salary.

9. It is well settled proposition of law that the husband has to provide financial support to his wife which should be on par with the status of the husband and so in this case, from the materials, it is seen that the 1st respondent, though she is qualified, she is not working due to various reasons and the 2nd respondent is a minor daughter. The marriage between the parties are not in dispute. Paternity of the child is also not in dispute and it is transpired that the petitioner is working as B.T. Teacher and he is getting salary of Rs.63,472/- and it is not in dispute.

10. Therefore, under these circumstances, the learned Magistrate awarded a sum of Rs.12,000/- per month to the 1st respondent and Rs.6,000/- to the 2nd respondent and the same is very reasonable, considering the income and status of the petitioner. Therefore, the maintenance awarded is not exorbitant, but a reasonable one and there is no perversity in the order passed by the learned Magistrate.

11. Considering the facts and circumstances of the case and the pathetic situation of the respondents, this court is of the view that there is no grounds made out to admit the revision. Hence, the criminal revision is dismissed at the admission stage itself. Consequently, the connected criminal miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dm



To

1. The Judicial Magistrate Court
at Vaniyambadi in Vellore District
at present Thirupattur District.

CrI.R.C.No.457 of 2021
and
CrI.M.P.No.7510 of 2021

RGN (CO)
LS (03/09/2021)