



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANAPANI

CRL.OP.NO.19960 OF 2019

AND

CRL.M.P.NO.10239 OF 2019

Dhayalan

... Petitioner/Revision
Petitioner/Respondent

.Vs.

1. Kalpana@Logeshwari
2. Minor D.K.Dinesh Kumar
3. Minor D.K.Tamil Selvan

Respondents 2 & 3 are represented by
their guardian/mother
Kalpana @ Logeshwari

... Respondents/Respondents/
Petitioners

PRAYER:-

The Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to set aside the order passed by the learned Judicial Magistrate-1, Ponneri dated 29.01.2018 in MC.No.01/2016 and the order passed by the Principal District Judge, Thiruvallur on 30.01.2019 in Criminal Revision Petition No.8 of 2018.

For Petitioner : Mr.S.Vijay Anand

For Respondents : No appearance

O R D E R

This Criminal Original Petition has been filed against the order passed by the learned Judicial Magistrate-1, Ponneri dated 29.01.2018 in MC.No.01/2016, confirming the order passed by the learned Principal District Judge, Thiruvallur on 30.01.2019 in Criminal Revision Petition No.8 of 2018.

2. The first respondent is the wife of the petitioner and the respondents 2 and 3 are sons of the petitioner. The case of



the petitioner is that the first respondent and the petitioner got married on 08.02.2007 at Thirumalai Thirupathi Devasthanam as per Hindu Rites and Customs. Out of the wedlock, they are blessed with two male children. Due to misunderstanding, the couple had frequent quarrels and the wife left the matrimonial home along with their children. She is living in her paternal house. The 1st respondent/wife along with her minor sons filed a petition in M.C.No.1 of 2016, under Section 125 of Cr.P.C seeking maintenance before the learned Judicial Magistrate-I, Ponneri. The learned Judge, after considering the entire facts and circumstances of the case, passed an order dated 29.01.2018, directing the petitioner/husband to pay a sum of Rs.4,000/- per month, to the first respondent/wife and to pay a sum of Rs.3,000/- to the second respondent/minor son every month from the date of petition. During pendency of the case, the third respondent/minor son died.

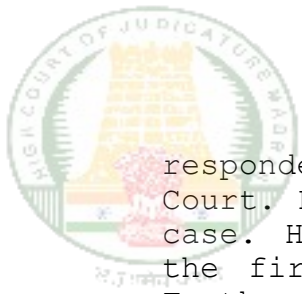
3. As against the order dated 29.01.2018, the petitioner/husband has preferred this criminal revision before the learned Principal District Judge, Thiruvallur. After hearing both sides, the learned Principal District Judge dismissed the case filed by the petitioner/husband and confirmed the order passed by the trial Court.

4. Challenging the order in Crl.Rev.Pet.No.8 of 2018 dated 30.01.2019, the petitioner/husband has filed the present petition before this Court.

5. The learned counsel for the petitioner/husband submitted that the petitioner is working as Supervisor in a private company namely Super Fill and he is earning a sum of Rs.18,455/- and he has to take care of his aged parents. Therefore, he is not in a position to pay such huge amount of Rs.7,000/- to the respondents. The petitioner has purchased two immovable properties in favour of the first respondent. Therefore, the learned counsel prays this Court to set aside the order passed by the Family Court.

6. Though, notice has been served on the respondents, there is no appearance on behalf of the respondents. Name has been printed in the cause list and there is no representation on behalf the respondents. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

7. It is admitted that the first respondent is the wife of the petitioner and the second respondent is the minor son. Due to the difference of opinion, the petitioner and the respondents were living separately. The petitioner admitted that he is working as Senior Supervisor in a private concern and receiving a sum of Rs.18,455/- as monthly salary. Initially, the



respondents have claimed a sum of Rs.30,000/- before the trial Court. But, the third respondent died during the pendency of the case. However, the trial Court awarded a sum of Rs.4,000/- to the first respondent and Rs.3,000/- to the second respondent. Further the trial Court has not awarded any amount towards medical, education or shelter. Further, the respondents stated in their complaint that the petitioner is doing real estate business and earning a sum of Rs.1,00,000/- per month, for which, the respondents have not filed any proof. However, considering the facts and circumstances of the case and cost of living prevailing as on date, the award passed by the trial Court is just and reasonable and this Court does not find any reason to interfere with the award passed by the trial Court and there is no merit in the revision.

8. Under these circumstances, the respondents are entitled to get maintenance from the petitioner. The petitioner is directed to continue to pay the maintenance to the respondents as ordered by the learned Judicial Magistrate-I, Ponneri in M.C.No.1 of 2016 dated 29.01.2018 and confirming the order passed by the learned Principal District Judge, Thiruvallur on 30.01.2019 in Criminal Revision Petition No.8 of 2018.

9. With the above observation and direction, the Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rli

To

1. The Judicial Magistrate-1,
Ponneri.
2. The Principal District Judge,
Thiruvallur.

+2ccs to Mr.S.Vijay Anand, Advocate, S.R.No.37525

CRL.OP.NO.19960 OF 2019 AND
CRL.M.P.NO.10239 OF 2019

PL(CO)
PBS/03/09/2021