



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANAPANI

Crl.OP.No.20437 of 2019
and
Crl.M.P.No.10514 of 2019

R.Kumar

...Petitioner

Vs.

1. Ramu Reddiar
2. Anusuya

... Respondents

Prayer: The Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the records relating to the order dated 11.11.2016 made in MC.No.15 of 2014 on the file of the learned Judicial Magistrate, Kallakurichi confirmed the order dated 14.03.2019 made in CRP. No.9 of 2017 on the file of the learned Additional District Judge, Kallakurichi and set aside the same by allowing this Criminal Original Petition.

For Petitioner : Mr.N.Monoharan

For Respondents : Mrs.R.Meenal

O R D E R

This Criminal Original Petition has been filed against the order dated 11.11.2016 made in MC.No.15 of 2014 on the file of the learned Judicial Magistrate, Kallakurichi confirmed the order dated 14.03.2019 made in CRP. No.9 of 2017 on the file of the learned Additional District Judge, Kallakurichi

2. The case of the petitioner is that the petitioner is the younger son of the respondents. The petitioner is physically challenged persons and he is residing with his wife and son. The respondents were owned 10 acres of land. Due to old age, the respondents were unable to maintain the land, therefore, the above said land has been partitioned between the brothers. Thereafter, the parents have been instigated by the elder brother Jothi to harass the petitioner, for which, the respondents have filed a maintenance case in MC.No.15 of 2014



before the learned Judicial Magistrate, Kallakurichi against the petitioner claiming a sum of Rs.5000/- each. The learned Judge, after considering the entire facts and circumstances of the case, passed an order dated 26.11.2016, directing the petitioner/son to pay a sum of Rs.5,000/- per month, to the respondents/parents from the date of petition.

3. As against the order dated 26.11.2016, the petitioner has preferred this criminal revision before the learned III Additional District Judge, Kallakurichi. After hearing both sides, the learned Additional District Judge dismissed the case filed by the petitioner and confirmed the order passed by the trial Court.

4. Challenging the order in Crl.Rev.Pet.No.9 of 2017 dated 14.03.2019, the petitioner has filed the present petition before this Court.

5. The learned counsel for the petitioner submitted that the petitioner is physically challenged person and after partition, the petitioner has not cultivated anything in his land and he is not in a position to pay the maintenance to the respondents. The petitioner's elder brother instigated his parents to file a maintenance case against him to harass him and there is no proof to show that the petitioner's elder brother has given a sum of Rs.60,000/- and 10 bags of paddy per year to the respondents. Hence, the learned counsel prays this Court to set aside the order passed by the Court below.

6. The learned counsel for the respondents submitted that the respondents owned 10 acres of land situated in Madam Village. Due to old age, the respondents divided the land and settled it in favour of their sons. After partition, the petitioner has not taken care of his parents. But the elder son of the respondents has paid a sum of Rs.60,000/- and 10 bags paddy to the respondents every year. When the first respondent asked about the act of the petitioner, the petitioner harassed his parents and attacked his mother. Due to which, her wrist was broken. Thereafter, the issue was pacified by the village elders and the petitioner has also accepted to pay a sum of Rs.5,000/- every month to the respondents. But the petitioner has not maintained his parents and threatened them. The respondents are also unable to maintain them. Hence, the learned counsel prays to dismiss the petition.

7. Heard, the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials available on record.



8. It is admitted that the respondents are the parents of the petitioner. It is seen from the records that the trial Court has awarded a sum of Rs.5,000/- per month as maintenance to the parents. Though the petitioner stated that he is physically challenged person and he is unable to earn. Therefore, he could not paid any maintenance to the respondents. But the respondents, who are the senior citizens, unable to maintain themselves. Further the respondents have recorded in their statement before the trial Court that his elder son has paid a sum of Rs.60,000/- and 10 bags of paddy every year. Like that, it is the duty of the petitioner to maintain his parents in their old age and he has to take care of them. However, the trial Court has awarded a sum of Rs.5,000/- per month maintenance to the respondents is reasonable amount. Therefore, this Court does not interfere with the order passed by the learned Judicial Magistrate, kallakurichi and there is no merits in this revision.

9. 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, Kallakurichi in M.C.No.15 of 2014 dated 11.11.2016 and confirming the order passed by the learned Additional District Judge, Kallakurichi on 14.03.2019 in CRP. No.9 of 2017.

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

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

1. The Judicial Magistrate, Kallakurichi.
2. The Additional District Judge, Kallakurichi.

+1cc to M/S.N.Manokaran, Advocate, SR.No.37833

CrI.OP.No.20437 of 2019
and

CrI.M.P.No.10514 of 2019

GP(CO)
PM(02/09/2021)