

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.970 of 2020
and Crl.M.P.No.6736 of 2020

B.Viswalingam ... Petitioner/Respondents
..vs..

1.Soundari
2.Arvind Jai (minor) ... Respondents/Petitioner

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to call for the records and set aside the order passed in M.C.No.19 of 2019 on the file of the learned Family Court Judge, Krishnagiri dated 29.01.2020.

For Petitioner : Mr.S.Venkata Krishna Kumar

For Respondents : M/s.R.Anitha

O R D E R

This Criminal Revision Case has been filed against the order dated 29.01.2020 passed in M.C.No.19 of 2019 on the file of the learned Family Court Judge, Krishnagiri.

2. The petitioner is the respondent in M.C.No.19 of 2019 on the file of the learned Family Court Judge, Krishnagiri. The respondents 1 and 2 are the petitioners in the maintenance case. The petitioner married the 1st respondent in the year 2007 and out of their wedlock a male child, the 2nd respondent herein, was born on 08.01.2009. Subsequently, the petitioner and the first respondent were living separately. The second respondent, who is aged about 11 years, is suffering with Blood Cancer and he is under the care and custody of his mother/first respondent. Therefore, the respondents 1 and 2 filed M.C.No.19 of 2019 seeking maintenance of Rs.15,000/- each totally Rs.30,000/- from the petitioner. The learned Judge, after due enquiry found that the petitioner and the first respondent are working as teachers. The petitioner is earning Rs.82,795/- per month and the first respondent is earning Rs.65,341/- per month. Hence, the learned Judge declined to grant maintenance to the first respondent, while so, maintenance of the minor child was fixed at Rs.15,000/- per month. Aggrieved over the said order, the petitioner filed the present Criminal Revision Case.

that the first respondent is working as a teacher and earning Rs.65,341/- per month. Despite the direction of the trial Court, she refused to live with the petitioner and therefore she is not entitled to get any maintenance. The first respondent is liable to maintain her children, whereas, the petitioner is maintaining his aged parents. Therefore, the maintenance amount awarded by the trial Court is on the higher side and the same may be reduced.

4.The learned counsel for the respondents would submit that the petitioner and first respondent were living separately and their minor son, the 2nd respondent herein, was detected with blood cancer and was taking treatment. Further, the first respondent alone taking care of the minor child and therefore, the Court below has rightly awarded the amount.

5. Heard the learned counsel on either and perused the materials available on record.

6. Admittedly, the petitioner and the first respondent got married in the year 2007 and out of their wedlock a male child was born on 08.01.2009. Now the petitioner and respondents were living separately. The 2nd respondent being a minor son is living under the care and custody of his mother/the first respondent. It is not in dispute that both are working as teachers in the Government Department and earning Rs.65,341/- and 82,795/- per month, respectively. Further, the paternity of the child and his disease are also not in dispute.

7.In the light of the above facts, it is the duty of the father to maintain the son. Since the son is only with his mother, the petitioner is liable to pay the maintenance amount. Considering the income of the petitioner as well as the pathetic situation of the 2nd respondent, the Court below has rightly awarded a sum Rs.15,000/- per month as maintenance. Therefore, this Court does not find any merit in the revision petition and the same is liable to be dismissed.

8. Accordingly, the Criminal Revision Case is dismissed with cost. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Ms

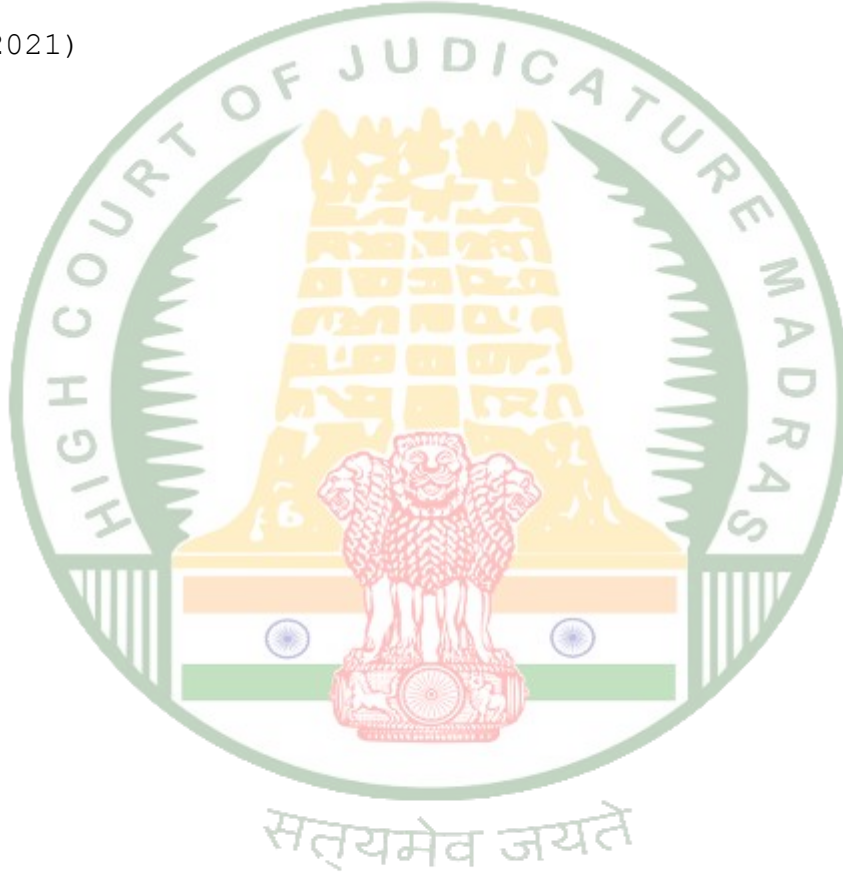
To

The Judge,
Family Court,
Krishnagiri.

+1cc to Mr.S.Venkatakrisnakumar, Advocate, S.R.No. 302
+1cc to Mr.R.Anitha, Advocate, S.R.No. 320

Crl. R.C.No.970 of 2020
and Crl.M.P.No.6736 of 2020

VG II(CO)
GN(03/02/2021)



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