

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.611 of 2019  
and Crl.MP.Nos.8400 & 14437 of 2019

R.Premkummar ... Petitioner/Respondent

...vs...

1.P.Hema

2.Sai Ritik (Minor)

Represented by mother and

natural guardian P.Hema ... Respondents/Petitioners

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to call for the records in F.C.M.C.No.73 of 2017 on the file of the Family Court, Vellore and set aside the order dated 10.05.2019 directing the revision petitioner to pay a sum of Rs.20,000/- per month to the minor 2<sup>nd</sup> respondent towards monthly maintenance from the date of filing of the petition and to pay the arrears maintenance amount within one month from the date of order.

For Petitioner : Mr.S.Suresh

For Respondents : Mr.K.R.Sampath  
for M.Senthil Vadivu  
for R1

O R D E R

सत्यमेव जयते

This Criminal Revision Case has been filed against the order dated 10.05.2019 passed in F.C.M.C.No.73 of 2017 on the file of the Family Court, Vellore.

2. According to the petitioner, the marriage between the petitioner and the 1<sup>st</sup> respondent was solemnized in the year 2013 and out of their wedlock a female child was born. Subsequently, the petitioner and the first respondent were living separately. The second respondent is under the care and custody of her mother/first respondent. Therefore, the respondents 1 and 2 herein filed F.C.M.C.No.73 of 2017 under Section 125(1) (a), 1(b)

of Cr.P.C before the learned Judge, Family Court, Vellore. After hearing both sides and also considering the entire materials, it was found that the first respondent is working in a private company and drawing sufficient salary and capable to maintain herself and hence, learned Judge declined to grant maintenance to the first respondent, while so, awarded a sum of Rs.20,000/- per month as maintenance to the minor child/2<sup>nd</sup> respondent herein. Aggrieved over the said order, the petitioner filed the present Criminal Revision Case.

3. The learned counsel for the petitioner would submit that the petitioner has complied with the order of this Court dated 28.06.2019 and also regularly paying the maintenance amount. He would further submit that the first respondent is also earning sufficient income and she is also liable to take care of her child. Hence, the petitioner has come forward with this present revision seeking modification of the maintenance amount awarded by the learned Judge, Family Court, Vellore.

4. Heard the learned counsel on either side and also perused the materials available on record.

5. It is seen from the records, the paternity of the minor child is not in dispute. Now, the minor child is with the mother/1<sup>st</sup> respondent herein. The first respondent filed F.C.M.C.No.73 of 2017 seeking maintenance from the petitioner. After considering the entire materials, the learned Judge partly allowed the petition. The ingredients of Section 125 of Cr.P.C clearly shows that the wife who is unable to maintain herself is entitled for maintenance. However, in this case, the first respondent herself is having sufficient income to maintain herself and therefore, the ingredients of Section 125 of Cr.P.C has not been established by the first respondent.

6. In the light of the above facts, this Court does not find any perversity or infirmity in the order passed by the learned Judge. However, the first respondent/mother is also earning sufficient income to maintain herself and as per law the father and mother both are natural guardians and liable to maintain the minor child. Hence, the amount of Rs.20,000/- awarded by the Court below as maintenance to the minor child is modified as Rs.15,000/- per month.

7.With the above modification, the Criminal Revision Case is partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

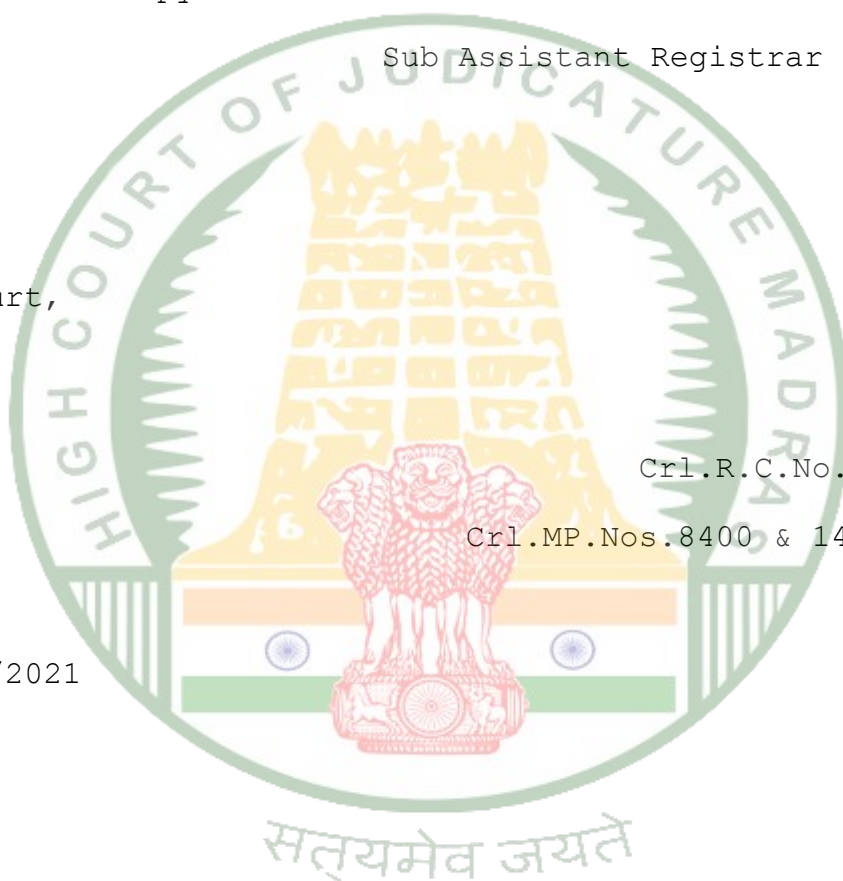
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To

The Judge,  
Family Court,  
Vellore.

Crl.R.C.No.611 of 2019  
and  
Crl.MP.Nos.8400 & 14437 of 2019

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srg 15/02/2021



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