

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.615 of 2019

R.Parthasarathy ..Petitioner/1<sup>st</sup> Respondent  
..vs..  
1.Revathy ..1<sup>st</sup> Respondent/Petitioner  
2.R.Kumara Guruparan ..2<sup>nd</sup> Respondent/2<sup>nd</sup> Respondent

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to allow the Criminal Revision Petition and set aside the order dated 22.05.2019 passed in M.C.No.32 of 2015 on the file of the Family Court at Puducherry.

For Petitioner : Mr.S.Sairaman  
For Respondents : Mr.T.Vimal Kumar  
for M/s.T.Mathi for R1

O R D E R

This Criminal Revision Case has been filed against the order dated 22.05.2019 passed in M.C.No.32 of 2015 on the file of the Family Court, Puducherry.

2. The petitioner is the husband and the 2<sup>nd</sup> respondent is the son of the first respondent. The first respondent filed Maintenance case in M.C.No.32 of 2015 before the learned Judge, Family Court, Puducherry seeking maintenance under Section 125 (1)(a) and (d) Cr.P.C from her husband/petitioner herein and son/2<sup>nd</sup> respondent herein. The learned Judge, after hearing both sides and also considering the oral and documentary evidence allowed the petition, by directing the husband/petitioner to pay a sum of Rs.5,000/- per month as well as the son/2<sup>nd</sup> respondent to pay a sum of Rs.10,000/- per month as maintenance to the petitioner. Challenging the said order, the petitioner/husband is before this Court by way of this Revision.

3. The learned counsel for the petitioner/husband would submit that first respondent is having sufficient income to maintain herself and the petitioner had already paid sufficient money by cash i.e., about Rs.15,00,000/- and settled her, whereas, the petitioner is a retired employee and is depending upon his monthly pension. However, the learned Judge failed to consider the documentary evidence filed by the petitioner herein awarded a sum of Rs.5,000/- per month as maintenance to the first respondent.

4.The learned counsel for the first respondent/wife would submit that the first respondent's husband/petitioner herein is a retired employee and getting pension more than Rs.25,000/- and her son/2<sup>nd</sup> respondent herein is also serving as a Deputy Director, Health Department and earning more than Rs.50,000/- per month. Hence, the father and son are liable to pay maintenance to the first respondent. The learned Judge has rightly awarded the maintenance amount.

5. Heard the learned counsel for the petitioner and the learned counsel for the first respondent and also perused the materials available on record.

6.Admittedly, the petitioner and the 2<sup>nd</sup> respondent herein are the husband and son of the first respondent. The petitioner is a retired employee and getting pension and the second respondent being a medical practitioner is also earning more than Rs.50,000/- per month. Hence, the first respondent filed M.C.No.32 of 2015 seeking maintenance from her husband and son. 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 documentary evidence produced by the petitioner would reveal that the first respondent herself is having sufficient means to maintain herself. Therefore, the ingredients of Section 125 of Cr.P.C has not been established by the first respondent. Therefore, the order passed by the learned Judge, Family Court, Puducherry is set aside insofar as the petitioner is concerned. However, the 2<sup>nd</sup> respondent, who is the son of the first respondent has not challenged the order before this Court and hence, the order passed by the learned Judge against the 2<sup>nd</sup> respondent is unaltered.

7. With the above direction, this Criminal Revision Petition is partly allowed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Judge, Family Court, Puducherry.

+3cc to Mr.T.Mathi, Advocate Sr.No.2183  
+1cc to M/s.S.Sairaman, Advocate Sr.No.2094

AKM/12.02.2021/2P-6C /

CrI. R.C.No.615 of 2019  
18.01.2021