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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.08.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NO.1172 OF 2019

AND

CRL.M.P.NO.15584 OF 2019

Justin Ashok,
S/o, Anasdoss William

... Petitioner/Respondent

Versus

1. D.Maria Rita Sharmila

2. Minor J.Annie Andrea
Rep by her mother and next friend
first respondent herein.

... Respondents/Petitioners

PRAYER: Criminal Revision case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records pertaining to the order dated 15.02.2019 made in M.C.No.172 of 2017 on the file of the Principal Family Court, Chennai and set aside the same.

For Petitioner : Mrs.Mehek
for M/s.Tamizh Law Firm

For Respondents : Mr.A.R.Nixon



ORDER

This Criminal Revision case has been filed to call for the records pertaining to the order dated 15.02.2019 made in M.C.No.172 of 2017 on the file of the Principal Family Court, Chennai and set aside the same.

2. The petitioner herein is the respondent and the respondents are the petitioners in M.C.No.172 of 2017. The petitioner is the husband of the first respondent and father of the second respondent. The respondents filed the Maintenance case under section 125 Cr.P.C., against the petitioner herein in M.C.No.172 of 2017 for maintenance. The learned Family Court awarded Rs.40,000/- each to the respondents totally Rs.80,000/- per month and Rs.10,000/- for litigating expenses. Challenging the said order passed by the learned Judge, Family Court, the petitioner has filed the present Civil Revision Case before this Court.

3. The learned counsel for the petitioner would submit that at the time of filing the petition, the petitioner was earning Rs.1,40,000/- but subsequently he lost his job and he has no other income and there is no earning source and out of which he has to maintain his parents and without considering the facts, the learned Judge, Family Court awarded Rs.40,000/- each to the respondents which is highly exorbitant and also he would submit that now filing the affidavit to show that he has no other income and at this stage, the award ordered by the Family Court is liable to be set aside.

4. The learned counsel for the respondents would submit that the petitioner is working in U.K and he would earn handsome salary. He deserted away his wife and child and the respondents are unable to maintain themselves and the petitioner is having sufficient means and he failed to maintain them and to pay the maintenance and therefore no other option except to file the petition under section 125 Cr.P.C. The trial court rightly appreciated the materials and ordered Rs.40,000/- per month each to the respondents and there is no merit on the revision case and the revision is liable to be dismissed.



5. Heard both sides and perused the records.

6. The relationship between the parties are not in dispute and the fact that they are living separately is also not in dispute. Before this Court, the petitioner has filed an affidavit to prove the source of income. It shows that the petitioner is jobless and he is not having any sufficient means. Earlier he was earning only a sum of Rs.1,04,000/- out of which, he paid Rs.80,000/- to his wife and child towards maintenance. Therefore he would not be able to maintain himself and also his aged parents.

7. Since the petitioner was working in abroad during the relevant period, he has the exclusive knowledge regarding the employment and income. Since the petitioner has not filed any affidavit before the Family Court regarding his employment and income, the trial court was of the view that he was an earning member so that the impugned order came to be passed. Therefore, this Court does not find any perversity in the order passed by the learned Magistrate. There is no merit the Revision Case and the same is liable to be dismissed. Accordingly the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

mfa

To

The Principal Family Court Judge,
The Principal Family Court,
Chennai.



+3ccs to Mr.A.R.Nixon, Advocate, S.R.No.42447, 42194

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CRL.R.C.No.1172 of 2019
and
CrI.M.P.No.15584 of 2019

SRA(CO)
RLP(16/09/2021)
RLP(30/09/2021)