

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.995 of 2019
and CrI.MP.No.13973 of 2019

M.Senthil Murugan

..Petitioner/Respondent

Vs.

1.Lavanya, W/o.Senthil Murugan
2.S.Loganathan, S/o.Senthil Murugan
Represented by mother and
natural guardian Lavanya

..Respondents/Petitioners

Criminal Revision Case filed under Section 397 read with
401 Cr.P.C, to set aside the order passed in M.C.No.4 of 2019
on the file of Family Court, Krishnagiri dated 28.06.2019.

For Petitioner : No appearance

For Respondents : No appearance

O R D E R

This Criminal Revision Case has been filed against the
order dated 28.06.2019 passed in M.C.No.04 of 2019 on the file
of the Family Court, Krishnagiri.

2. According to the petitioner, the marriage between the
petitioner and the 1st respondent was solemnized in the year 1998
and out of their wedlock, a male child was born. Subsequently,
the petitioner and the first respondent were living separately.
It is further stated that without any supporting materials, the
learned Judge granted maintenance only on the basis of sympathy,
surmises and conjectures. The second respondent is under the
care and custody of her mother/first respondent. Therefore, the
respondents herein filed M.C.No.04 of 2019 under Section 125
Cr.P.C before the learned Judge, Family Court, Krishnagiri.
After hearing both sides and also considering the entire
materials, it was found that the petitioner was directed to pay
a sum of Rs.5,000/- p.m. as maintenance to the respondents.
Aggrieved over the said order, the petitioner has come forward
with this petition seeking modification in the order passed by
the court below.

3. The learned counsel for the petitioner contended that
the first respondent is working in private nursing home and she
is earning sufficient income and the first respondent left the

matrimonial home voluntarily. Without any supporting documents, the court below fixed the income of the petitioner as Rs.15,000/- to Rs.20,000/- p.m. And awarded a sum of Rs.5,000/- each as maintenance is excessive and exorbitant. Hence, the petitioner has come forward with this present revision seeking modification of the maintenance amount awarded by the learned Judge, Family Court, Krishnagiri.

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. The petitioner is working in saloon shop in Tumkur. Now, the second respondent who attained major on 25.10.2017, is under the custody of the mother/1st respondent herein. The respondents also not having sufficient means to lead day-to-day life. Considering the above, the court below fixed the income of the petitioner notionally as Rs.15,000/- to 20,000/- and awarded a sum of Rs.5,000/- each as maintenance. Since the respondents are unable to maintain themselves and the petitioner is liable to pay maintenance to his wife and son, in the absence of any documentary proof in respect of petitioner's income, this Court is inclined to modify the order passed by the court below.

6. 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. Hence, the amount of Rs.5,000/- awarded by the Court below as maintenance to the respondents is modified as Rs.3,000/- per month.

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

Sd/-

Assistant Registrar (C.S.VI)

/True Copy/

Sub Assistant Registrar

To

The Judge,
Family Court,
Krihsnagiri.

AKM/22.02.21/ 2P-2C/

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