

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.1158 OF 2019

- 1.Menaka
- 2.Yashika
- 3.Minor Gopika

Rep.by mother and natural guardian
Menaka

... Petitioners

..vs..

Govindan

... Respondent

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the judgment dated 04.02.2015 made in M.C.No.6 of 2012 on the file of the Judicial Magistrate, Harur and allow the Criminal Revision.

For Petitioners : Mr.D.Ramesh Kumar
For Respondent : Mr.K.Nagarajan

O R D E R

This Criminal Revision Case has been filed against the order dated 04.02.2015 in M.C.No.6 of 2012 on the file of the learned Judicial Magistrate, Harur.

2. It is the case of the petitioners that the marriage between the first petitioner and the respondent was solemnized on 22.10.1993 and out of their wedlock three female child were born. It is further stated that there was a difference of opinion between the first petitioner and the respondent, hence, the relationship between them was broken up. The first petitioner filed H.M.O.P.No.77 of 2012 on the file of the Sub Court, Harur for divorce and the same was allowed. In the meanwhile, the first petitioner and her three daughters filed a petition in M.C.No.6 of 2012 under Section 125 Cr.P.C seeking maintenance from the respondent herein. The learned Magistrate, after due enquiry dismissed the claim petition in respect of the first petitioner/wife; and also dismissed as against elder daughter namely Janani as she already married; and awarded a sum of Rs.1,500/- each per month as maintenance to the petitioners 2

and 3 herein. Aggrieved over the said order, the petitioners filed the present Criminal Revision Case.

3. The learned counsel for the petitioners would submit that it is the bounden duty of the husband/respondent to maintain his wife/ the first petitioner herein, who is a house wife and father of the petitioners 2 and 3. Further, the properties hold by the first petitioner had been acquired by the parents of the first petitioner, for her welfare, however, the learned Magistrate failed to consider the same and dismissed the petition in respect of the first petitioner on the ground that she is having sufficient means to maintain herself. He would further submit that the learned Magistrate awarded Rs.1,500/- each per month as maintenance to the petitioners 2 and 3, but, the same is not sufficient to maintain themselves. The respondent is working as a driver in the Public Transport Corporation and is earning Rs.45,000/- per month. But the maintenance awarded to the children being Rs.1,500/- each is not sufficient to maintain themselves and hence, the learned counsel seeks modification in the order passed by the Court below.

4. The learned counsel for the respondent would submit that the respondent purchased the properties in the name of the first petitioner, in his own income. The first petitioner is having sufficient means to maintain herself, therefore, the learned Magistrate has rightly dismissed the petition in respect of the first petitioner and also dismissed as against elder daughter namely Janani as she already got married. Subsequently, the second daughter/ 2nd petitioner herein also got married and the respondent only borne the marriage expenses. Insofar as the third daughter/third petitioner herein is concerned, the respondent is paying the school fees and all other expenses. Therefore, the order passed by the learned Magistrate is reasonable, it does not warrant any interference by this Court.

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

6. Admittedly, the jural relationship between the parties are not in dispute. The petitioners and the respondent are living separately. The petitioners filed M.C.No.6 of 2012 seeking maintenance from the respondent. After considering the entire materials, the learned Magistrate allowed the petition in favour of the daughters/petitioners 2 and 3 herein. The main contention of the learned counsel for the petitioners is that so far, the respondent has not paid the maintenance amount awarded by the learned Magistrate.

7. At this juncture, the learned counsel for the respondent would submit that the respondent is ready to pay the amount, which shows that the respondent has not paid the maintenance amount awarded by the learned Magistrate, so far. Though the learned counsel for the respondent submitted that the first petitioner is having sufficient means to maintain herself. However, the respondent has not produced any documents to substantiate the same.

8. Though the learned counsel for the respondent submitted that out of three daughters, two daughters have already got married, after filing of the petition under Section 125 Cr.P.C the respondent borne all the marriage expenses of the 2nd daughter. However, the learned Magistrate, awarded Rs.1,500/- each per month as maintenance to the petitioners 2 and 3 herein from the date of filing of the petition, till the date of their marriage.

9. Further, in so far as the wife/first petitioner is concerned, no material documents have been produced to show that she is having sufficient means to maintain herself. Hence, the order passed by the learned Magistrate is set aside. The respondent is directed to pay Rs.5,000/- per month to the first petitioner from the date of petition in M.C.No.06 of 2012. Insofar as the third petitioner/minor daughter is concerned, the respondent is directed to pay Rs.5,000/- per month as maintenance till the date of her marriage.

With the above modifications, this Criminal Revision Case is allowed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate, Harur.
2. The Section Officer, Criminal Section,
High Court, Madras.

+2cc to Mr.D.Ramesh Kumar, Advocate, S.R.No.9060

Cr1.R.C.No.1158 of 2019

RR(CO)
CS/24/03/2021