

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.RC.No.1357 of 2019 and
CrI.M.P.No.18103 of 2019

P.H.Suresh

... Petitioner

Vs.

1. Mrs.Jeyachitra
2.Monisha(minor)
(reb by R1)

... Respondents

PRAYER : Criminal Revision Case filed under Section 397 of Cr.P.C. and Section 401 of Cr.P.C. to set aside the order dated 19.09.2017 passed in M.C.No.458 of 2012 by the V Additional Judge, Family Court, Chennai.

For Petitioner :Mr.G.Vijaya Babu

For Respondents:Mr.S.Sekar

O R D E R

The petitioner is the husband and the respondents are the wife and daughter of the petitioner. The respondents filed maintenance case in M.C.No.458 of 2012, on the file of the V Additional Family Court, Chennai and the learned Judge after enquiry passed an order and the petitioner was directed to pay a sum of 7,000/-per month to the first respondent and a sum of Rs.3,000/- per month to the second respondent as maintenance. Challenging the said order, the petitioner is before this Court by way of this revision.

2. The learned counsel for the petitioner would submit that at present the petitioner is not doing any business as stated by the first respondent and having lost in business, he is working in private rice mill for daily wages. He would further submit that the first respondent/wife is working in the private concern

and therefore the petitioner is not liable to pay the maintenance to the respondents. But, the learned V Additional Judge, Family Court failed to consider the same and ordered the maintenance payable by the petitioners to the respondents.

3. The learned counsel for the respondents would submit that the marriage between the petitioner and the first respondent was solemnized on 20.05.2005 and a female child was born out of their wedlock on 29.07.2006. It is further stated that the respondent is running his own business of making electric chokes and earns about Rs.20,000/- per month and he is also doing whole sale rice business and earning a sum of Rs.30,000/- per month totalling about Rs.50,000/- per month. It is further stated that the first respondent left the matrimonial home and living with her child separately and further the respondents have no means to maintain themselves and therefore they filed the petition in M.C.No.458 of 2012 before the Additional Family Court, Chennai for maintenance and the learned Family Court on enquiry has passed the order which is reasonable.

4. A perusal of the records would go to show that the respondents have filed the maintenance case before the V Additional Family Court, Chennai in M.C.No.458 of 2012. The relationship of the parties are not disputed and parent ship also not in dispute and the fact that the petitioner and the respondents are living separately was also not disputed. Further, the second respondent is under the care and custody of the first respondent. Though the respondents have stated in their petition in M.C.No.458 of 2012 that the petitioner is doing business and earning a sum of Rs.50,000/- per month, the petitioner has denied the same and contended that the petitioner is working in a private rice mill on daily wages. But the petitioner has neither examined himself nor examined any witness before the Family Court and further he has not filed any affidavit to disprove the contention of the first respondent and therefore the learned Judge, Family Court finding that the petitioner is earning member and the respondents are not having any means to maintain themselves, ordered a sum of Rs.7,000/- to the first respondent and a sum of Rs.3,000/- to the second respondent respectively.

5. Considering the materials available on record, this Court does not find any perversity in the order passed by the court below. There is no infirmity or illegality in the order passed by the Court below. Hence, this Revision is liable to be dismissed and the same is dismissed. Since the maintenance was ordered in the year 2012 itself and now the petitioner has not given any maintenance till date, the petitioner is directed to pay entire arrears of amount to the respondents within a period of one month from the date of receipt of a copy of this order,

failing which the learned V Additional Principal Judge, Family Court shall execute the order passed on 19.09.2017 by issuing warrant and in accordance with law. Consequently. connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

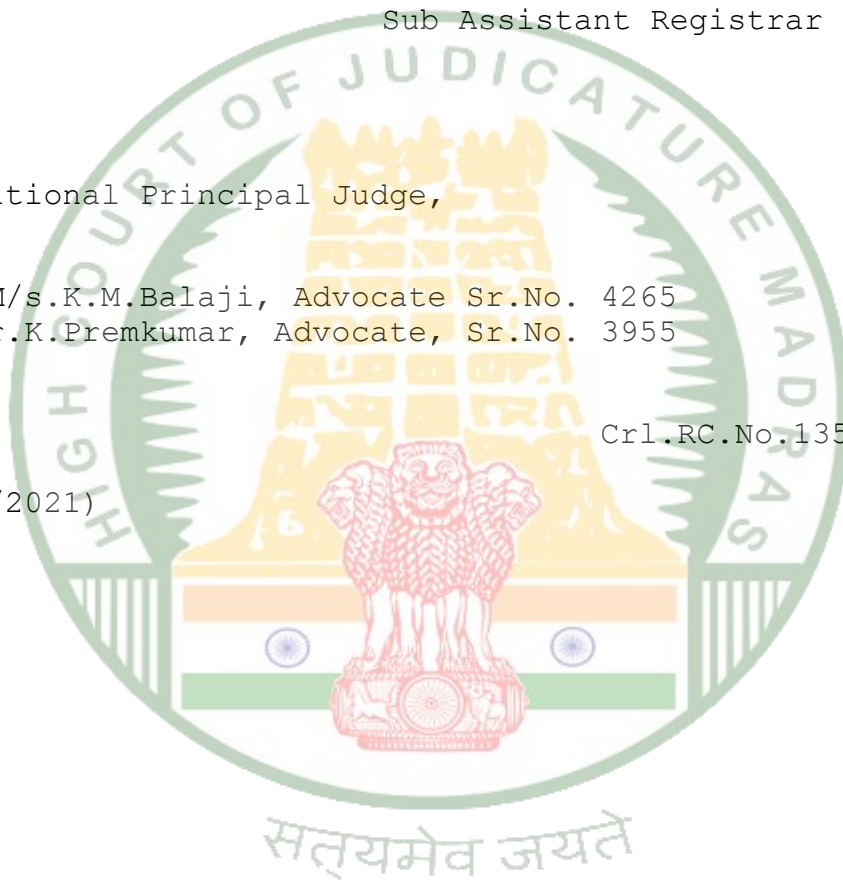
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To
The V Additional Principal Judge,
Chennai.

+1 cc to M/s.K.M.Balaji, Advocate Sr.No. 4265
+2cc to Mr.K.Premkumar, Advocate, Sr.No. 3955

Crl.RC.No.1357 of 2019

SS(CO)
RMP(22/02/2021)



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