

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2021

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1143 of 2019

Prince Innocent Ji Ji

... Petitioner

Versus

1.Hemalatha

2.Jennifer Prince

3.Minor Jacqlyn Prince

Rep. by P.Hemalatha

By her mother and natural guardian

... Respondents

PRAYER: Criminal Revision petition is filed under Section 397 r/w.401 Cr.P.C seeking to set aside the order made in MC.11 of 2016 on the file of the Judicial Magistrate Court, Mathuranthakam dated 30.07.2019.

For Petitioner : Mr.N.Sundaravadhanan

For Respondents : No Appearance

O R D E R

The respondents filed the case in M.C.No.11 of 2016 before the Judicial Magistrate, Madhuranthagam, under Section 125 Cr.P.C., for maintenance. The learned Magistrate, after enquiry ordered a sum of Rs.8000/- to the 1st respondent and Rs.6000/- each to the second and third respondents and in total, Rs.20,000/- was ordered. Challenging the said order, the petitioner has filed the present Criminal Revision.

2. The learned counsel for the petitioner would submit that the 1st respondent wife is running a beauty parlour and she is able to maintain herself; further the petitioner and the respondents are residing in the same house and therefore, the petitioner is not liable to pay maintenance to the wife/1st respondent. The 2nd respondent already attained majority. Therefore, the petitioner is not required to pay maintenance to the 2nd respondent. Since the 1st respondent voluntarily deserted the petitioner, the 1st respondent is not entitled to get any maintenance amount. Even the Family court ordered restitution

and given a direction in F.C.I.D.O.P.No.54 of 2016 that the 1st respondent has to join the petitioner, but the 1st respondent voluntarily refused to join the petitioner and deserted the petitioner. Therefore, she is not entitled to maintenance.

3. Heard and perused the records.

4. The relationship between the petitioner and the respondents is not in dispute. Petitioner's paternity of the 2nd and 3rd respondent is not in dispute. Both the petitioner and the respondents are living separately. Even though the petitioner submitted that they are living separately, they are in the same building.

5. According to the learned counsel for the petitioner, the respondents voluntarily deserted the petitioner. According to the 1st respondent/wife, the petitioner is having illegal intimacy with another lady and the petitioner did not take care of her and her children. Even though the petitioner is a school teacher, he is not teaching his own children also. Due to valid reasons, they are living separately. Since the 1st respondent has no means, they are unable to maintain themselves.

6. Since no proof is shown by the petitioner to the effect that respondents are able to maintain themselves, petitioner is liable to maintain the respondents. The trial court, after considering the material evidence, found that the petitioner is working in Government Department and earning a sum of Rs.60,000/- per month and so he is liable to pay the maintenance amount to the respondents. Therefore, the learned Judge ordered Rs.20,000/-. Since the petitioner is an earning member and getting a sum of Rs.60,000/- and the respondents are unable to maintain themselves, the petitioner has not proved by producing any document that the respondents are able to maintain themselves, this court finds no perversity in the order of the learned Magistrate. Accordingly, this Criminal Revision is dismissed. Connected Miscellaneous Petition is Closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

nvsri

To

1.The Judicial Magistrate Court,
Mathuranthakam.

2.The Section Officer,
Criminal Section (Records)
High Court Madras.

+1 cc to M/s.A.Sundaravadhanam, Advocate Sr.No. 10280

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GSM(CO)
RMP(07/04/2021)



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