

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1399 of 2019

Minor Vaishnavi,
D/o.Raju, Rep.by Next Friend
Mother Tamilmathi,
5/136, Gandhi Nagar,
Nallipalayam, Namakkal Taluk,
Namakkal District.

...Petitioner/Petitioner

Vs.

Raju

...Respondent/Respondent

PRAYER: Criminal Revision Petition filed under 397 r/w 401 of Cr.P.C. to enhance the maintenance amount claimed by the petitioner as prayed for in the petition in C.M.P.No.98 of 2018 in M.C.No.21 of 2013, on the file of the Family Court, Namakkal.

For Petitioner : Mr.R.Prabakar
For Respondent : No appearance

O R D E R

Not being satisfied with the order passed by the learned Judge, Family Court, in C.M.P.No.98 of 2018 in M.C.No.21 of 2013, the petitioner/minor is before this Court.

2. The petitioner is the minor daughter, represented by her mother and the respondent is the husband. Originally, the mother of the minor daughter filed a maintenance case in M.C.No.21 of 2018 for herself and her daughter. After a bitter contest, the learned Judge, Family Court Namakkal, by an order dated 11.11.2013, ordered maintenance of Rs.3,000/- each to the minor daughter and mother. Subsequently, the mother of the minor filed a petition for Divorce and the same was allowed and sacrificed her right to get maintenance. Thereafter, father and mother married separately they got separate family. Admittedly, minor daughter is in the care and custody of the mother. Thereafter, minor filed M.P. No.98 of 2018 in M.C.No.21 of 2013 under Section 127 Cr.P.C. seeking enhancement of maintenance amount. On notice, the respondent-father entered appearance and filed

his counter. After hearing either side, the Family Court, Namakkal, by order dated 30.05.2019 in M.P. No.98 of 2018 in M.C.No.21 of 2013, enhanced the maintenance amount from Rs.3,000/- per month to Rs. 8,000/- per month. Not being satisfied with the award amount, the minor, represented by her mother, is before this Court.

3. The learned counsel for the petitioner would submit that though the father and mother got second marriage, now the minor is under the care and custody of the mother. Though the mother given up her maintenance amount of Rs.3,000/-, as she got second marriage, a sum of Rs.3,000/- only was ordered to the minor. However, in the petition filed for enhancement under Section 127 of Cr.P.C., maintenance amount was enhanced from Rs.3,000/- to Rs.8,000/-, as against the claim of Rs.10,000/-. It is also further contended that the minor is studying in a reputed private school, and the yearly educational expenses would come to around Rs.90,000/- and therefore, prays for enhancement of amount from Rs.8,000/- to Rs.10,000/-.

4. Though notice has been served and the name of the respondent has been printed in the cause list, none appears for the respondent to represent his case, however, considering the stand taken in the counter statement, by the respondent before the Family Court, it could be seen that though the mother of the minor can admit the minor in the school, which collect lesser fee, it could not be equated the standard of education provided in the Corporation School / Government School.

5. The contention of the respondent-father before the learned Judge, Family Court, Namakkal is very reasonable. Because, nowadays, most of the parents wanted to join their children in the private schools and taking advantage of that, all the private schools are amazing their wealth, by collecting donations and fees unreasonably, though sufficient Government / Corporation Schools are available in Tamil Nadu and they are providing good education. However, this Court does not want to involve in the decision of the mother of the minor that her daughter to be studied in private school, anyhow, for which, the respondent cannot be mulcted with unreasonable demand raised by the mother of the minor child.

6. Taking into consideration, the minor is living with her mother and also considering the rise in prices, the learned Judge, Family Court Namakkal, has already considered the enhancement of maintenance and enhanced the maintenance from Rs.3,000/- to Rs.8,000/-, which is reasonable.

7. In such view of the matter, this Court does not find any illegality or infirmity in the order passed by the learned

Judge. The petitioner is directed to pay or deposit the entire arrears of maintenance in accordance with the order of the Family Court, Namakkal, in C.M.P.No.98 of 2018 in M.C.No.21 of 2013 in a lumpsum within a period of one month and thereafter, continue to pay the maintenance amount every month without fail. However, the minor is entitled for enhancement of maintenance amount from date of filing of the petition in C.M.P.No.98 of 2018 in M.C.No.21 of 2013 viz., 05.08.2017, instead of 06.10.2018. In case of default in payment of the maintenance amount, the respondent/minor daughter, represented by her mother, shall have the liberty to bring it to the notice of the learned Judge, Family Court, Namakkal and the learned Judge, shall execute the order by passing necessary orders.

8. With the above observations, this Criminal Revision Petition is dismissed.

Sd/-
Assistant Registrar (CS VII)

//True copy//

Sub Assistant Registrar

rns

To

1.The Family Court,
Namakkal.

2.The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to M/s.R.Prabakar, Advocate SR.No.4305

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Cr1.R.C.No.1399 of 2019

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