

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.RC.No.1384 of 2019 and
Cr1.M.P.No.18263 of 2019

Kaliappan

... Petitioner/Respondent 2

Vs.

1. K.Lakshmi

2.T.K.Sivananthan

... Respondents/Respondents

PRAYER : Criminal Revision Case filed under Section 397 (1) and Section 401 of Cr.P.C. to set aside the order dated 26.08.2019 passed by the learned Principal Sessions Judge, Namakkal in C.R.P.No.19 of 2017 in M.C.No.41 of 2014 on the file of Chief Judicial Magistrate, Namakkal by order dated 1.9.2017 u/s 125 Cr.P.C.

For Petitioner :Ms.Sumithra Vasudevan

For Respondents:No appearance

O R D E R

The petitioner is the father of the respondents. The first respondent is the daughter and the second respondent is the son. The petitioner filed maintenance case against the respondents in M.C.No.41 of 2014 before the learned Chief Judicial Magistrate, Namakkal. The learned Chief Judicial Magistrate, after enquiry vide order dated 01.09.2017 directed the first respondent to pay a sum of Rs.1,000/- per month and the second respondent was directed to pay a sum of Rs.2,500/- per month to the petitioner. Challenging the said order the first respondent herein who is the daughter of the petitioner filed Civil Revision Petition in C.R.P.No.19 of 2017 before the Principal Sessions Judge, Namakkal. The learned Principal Sessions Judge, Namakkal after hearing the revision dismissed the M.C.filed by the first respondent and thereby allowed the revision, stating that the petitioner herein has admitted that he is receiving a sum of Rs.10,000/- as pension and out of which he is paying a sum of Rs.2,500/- to his first wife as maintenance having the balance amount of Rs.7,500/- for his needs. Challenging the said order passed by the learned Principal Sessions Judge, the petitioner is before this Court by way of revision.

2. The learned counsel for the petitioner would submit that the petitioner father is already retired employee and is a pensioner getting a sum of Rs.10,000/- as pension, out of which he is paying a sum of Rs.2,500/- to the first wife. He would further submit that due to old age the pension received is not sufficient to maintain himself. Therefore he filed the maintenance case before the Chief Judicial Magistrate, Namakkal and the learned Magistrate ordered a sum of Rs.2,500/- payable by the first respondent and a sum of Rs.1,000/- payable by the second respondent. But, the learned Principal Sessions Judge failed to consider these aspects and dismissed the M.C. with regard to the first respondent. He would further submit that the petitioner is already a pensioner and getting only a meager amount as pension, which is not sufficient to maintain him due to oldage and further he requires some amount for medical expenses and therefore he filed the present revision. The learned counsel for the petitioner would further submit that the first respondent is Sub Inspector of Police and drawing handsome salary, whereas the petitioner is at present aged 80 years and just getting pension of Rs.10,000/- which is not sufficient to maintain himself. Therefore, the order passed by the learned Principal Sessions Judge, Namakkal is liable to be set aside.

3. No representation from the respondent.

4. Admittedly the petitioner is the father of the respondents and the second respondent was directed to pay a sum of Rs.1,000/- which was not challenged by the second respondent and only the first respondent who was directed to pay a sum of Rs.2,500/- was challenged before the Principal Sessions Judge and the learned Principal Sessions Judge set aside the order passed by the learned Magistrate with regard to the first respondent. Further, the learned Sessions Judge referred the evidence and stated that the petitioner who clearly admitted that a sum of Rs.10,000/- has been receiving by him as a pension and out of which he is paying a sum of Rs.2,500/- to his first wife as maintenance and out of the balance amount he is fulfilling his needs. As per Section 125 of Cr.P.C., the father or mother unable to maintain themselves, they can file petitioner against the son/daughter for maintenance and now the first respondent got the marriage and living with her husband and also the petitioner is getting pension of Rs.10,000/- as admitted by him before the Principal Sessions Judge. Since Section 125 Cr.P.C. is very clear that the parents who are unable to maintain themselves can file the case against her children seeking maintenance and as the petitioner is a retired employee and getting pension which was admitted by him, the learned Principal Sessions Judge considered the same and dismissed the petition. Hence this Court in the revisional jurisdiction

cannot sit in the arm chair of the Appellate Court and reappreciate the evidence. Considering the facts and circumstances of the case and considering the fact that the petitioner is a pensioner and also considering Section 125 Cr.P.C. ,this Court does not find any irregularity or infirmity in the order passed by the learned Principal Sessions Judge and there is no merit in the revision petition and the same is liable to be dismissed. Accordingly, this revision is dismissed. Though the daughter is not necessary to pay maintenance, she is morally liable to pay as the petitioner is pensioner and her father is aged person and therefore the first respondent/daughter is advised to consider the request of her father.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

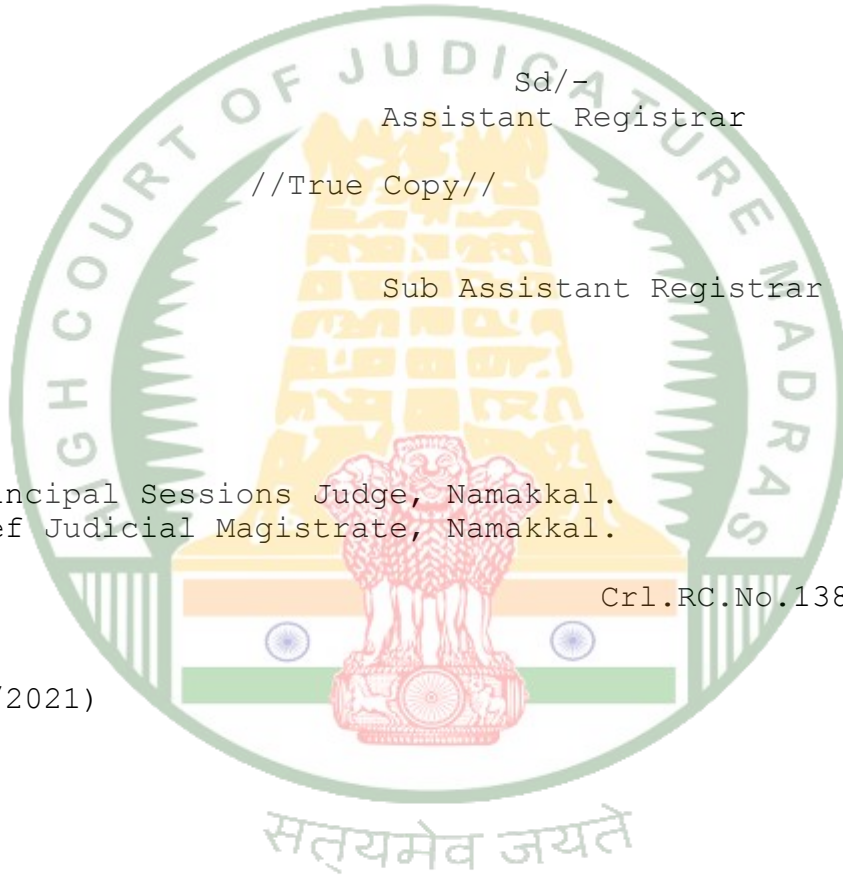
arr

To

1. The Principal Sessions Judge, Namakkal.
- 2.The Chief Judicial Magistrate, Namakkal.

Cr1.RC.No.1384 of 2019

VGII (CO)
RMP (17/02/2021)



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