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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1482 of 2018

And

Crl.M.P.Nos.4820, 4821 of 2021 and 17397 of 2018

M.Yuvaraj

... Petitioner/Respondent

Vs.

1.S.Poongodi

2.Y.Harichaaran

3.Y.P.Manasi

(Respondents 2 and 3 are under the
custody of the first respondent)

... Respondents/ Petitioner

Prayer:

Petition filed under Section 397 r/w 401 of Cr.P.C.,
seeking to set aside the fair and decreetal order passed in
M.C.No.415 of 2012 on the file of IV Additional Family Judge -
Chennai dated 15.10.2018.

For Petitioner : M/s.M.E.V.Thulasi

For Respondent : M/s.R.Mahalakshmi

O R D E R

The petitioner has filed this petition seeking to set aside
the order dated 15.10.2018 in M.C.No.415 of 2012 on the file of
the learned IV Additional Family Judge - Chennai.

2.The facts of the case is that the marriage between the
petitioner and the first respondent was solemnized on 22.11.2009
at Chennai as per the Hindu Rites and Customs. Out of the
wedlock, respondents 2 and 3 were born to them. The first
respondent is working as Senior Ticket Examiner at Perambur,
Southern Railways, Chennai. Since the petitioner insisted the
salary slip of the first respondent and demanded to deposit
salary in the joint account and since he did not spend money for
the pregnancy expenditures, the first respondent did not return



to her matrimonial home after her second delivery. Thereafter, she filed M.C.No.415 of 2012 before the IV Additional Family Court at Chennai, claiming a sum of Rs.5,000/- per month each to her and the children towards maintenance.

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3.After adjudication, the IV Additional Family Court at Chennai, awarded a sum of Rs.4,000/- per month each to respondents 2 and 3 and a sum of Rs.2,000/- per month to the first respondent with an increase of Rs.1,000/- per year from the date of petition viz., 13.09.2012 till 2015 and also observed that the first respondent is entitled for maintenance till December, 2015 and since she could maintain herself, she is not entitled to get maintenance from the petitioner thereafter and also observed that after 2015, the amount of maintenance ordered for respondents 2 and 3 with the above increase is ordered to be shared equally by the petitioner and the first respondent. Aggrieved by the same, the petitioner has filed this revision.

4.The learned counsel appearing for the petitioner would submit that the first respondent is working as Senior Ticket Examiner at Perambur, Southern Railways, Chennai and she is capable of maintaining herself and the children. She would further submit that the petitioner has to maintain his age old parents and also has to pay a sum of Rs.17,000/- per month as EMI for purchase of house which stands in the name of the petitioner as well as first respondent, hence, maintenance awarded in favour of the first respondent is unsustainable and further submitted that awarding increase of Rs.1,000/- per year is un-known to Section 125 of Cr.P.C.

5.The learned counsel appearing for the respondents would submit that though the first respondent is working as Senior Ticket Examiner at Perambur, Southern Railways, Chennai, the IV Additional Family Court at Chennai, has awarded only a meagre amount of Rs.2,000/- per month to the first respondent which cannot be interfered with. She further submitted that though the first respondent claimed a sum of Rs.5,000/- each towards maintenance, the IV Additional Family Court at Chennai, has awarded only a sum of Rs.4,000/- per month each to respondents 2 and 3 which is also meagre.

6.The learned counsel appearing for the respondents would further submit that the property stands in the name of the petitioner and the first respondent and would further submit that merely paying EMI does not mean that the first respondent is not entitled for maintenance and it is the duty cast upon the petitioner to maintain his wife and children.



7. Heard the submissions made by the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents.

8. The facts in the case is not disputed. Though the petitioner is paying EMI for the property standing in the name of the petitioner and the first respondent it is the duty cast upon the petitioner to maintain his wife and children. Admittedly, the first respondent is working as Senior Ticket Examiner at Perambur, Southern Railways, Chennai. Hence, she is capable of maintaining herself and this Court is inclined to reject the amount awarded to her towards maintenance. However, the petitioner has to pay maintenance for his children. Further, this Court finds that the increase of Rs.1,000/- per year is not necessary and is inclined to reject the said amount.

9. In view of the above, this Court modifies the amount awarded by the IV Additional Family Court at Chennai vide order dated 15.10.2018 in M.C.No.415 of 2012 as follows:

The first respondent/ wife is not entitled for any maintenance. The respondents 2 and 3/ children are entitled to a sum of Rs.5,000/- each per month from the date of maintenance case petition viz., 13.09.2012 and the said amount is to be paid by the petitioner/ husband.

10. With the above modification, this revision is partly allowed. If the first respondent is inclined to file petition seeking enhancement of maintenance amount awarded to respondents 2 and 3, she is at liberty to file such petition before the IV Additional Family Court at Chennai. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The IV Additional Judge Family Court at Chennai.



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AJS (CO)
CT (22/09/2021)