



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 06.12.2021

Delivered on : 21.12.2021

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**THE HONOURABLE MRS. JUSTICE R. THARANI**

Crl. R.C.(MD)No.396 of 2019

and

Crl.M.P.(MD)No.5848 of 2019

S.Saravanan

.. Petitioner

Vs.

1.P.Ananthi

2.Minor.Kavin

3.Minor.Thaaniasree

(Respondents 2 and 3 are represented  
through their guardian, mother -  
the first respondent herein

.. Respondents

**Prayer :** This Revision Case is filed under Section 397 r/w. Section 401 of Cr.P.C., to set aside the order, passed in M.C.No.40 of 2018, on the file of the Family Court, Sivagangai, dated 05.04.2019 and to allow the above Criminal Revision.

For Petitioner

: Mr.Muthukamatchi

For Respondents

: Mr.A.K.Azagarsami

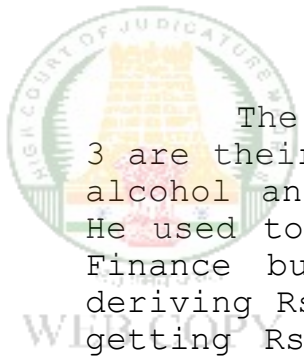
**ORDER**

This Criminal Revision has been filed against the order, passed in M.C.No.40 of 2018, on the file of the Family Court, Sivagangai, dated 05.04.2019.

2.The revision petitioner herein is the husband, the first respondent herein is the wife and the respondents 2 and 3 herein are their children. The first respondent herein / wife and her children filed a petition in M.C.No.40 of 2018, before the Family Court, Sivagangai, for maintenance. The Family Court, Sivagangai, has ordered the revision petitioner / husband to pay a sum of Rs.5,000/- each as maintenance to the respondents 2 and 3 herein/ children and has dismissed the petition against the wife. Against that order, the revision petitioner / husband has preferred this Revision.

3.Brief substance of the petition, in M.C.No.40 of 2018, is as follows:-

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The first petitioner is the wife and the petitioners 2 and 3 are their minor children. The respondent/husband used to consume alcohol and he is having illegal contact with many other ladies. He used to assault the first petitioner. The respondent is doing Finance business and is earning Rs.20,000/- per month. He is deriving Rs.10,00,000/- per annum from agricultural lands and he is getting Rs.60,000/- as monthly salary. The first petitioner is repaying GPF loan and she is unable to meet out the educational expenses of the minor children. The respondent is to be directed to pay a sum of Rs.10,000/- per month as maintenance to the first petitioner/wife and Rs.20,000/- per month each to the petitioners 2 and 3 / children.

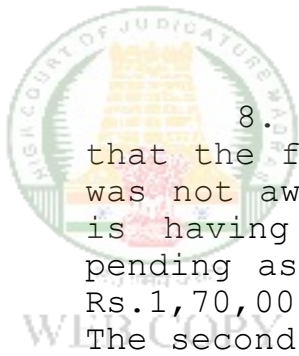
4.Brief substance of the counter filed by the respondent, in M.C.No.40 of 2018, is as follows:-

The respondent is working as a Head Master at Sinnarapatti Union School. The first petitioner abused and insulted the respondent and she lodged a false complaint before the All Women Police Station, Manamadurai. She is doing finance business. The respondent is getting Rs.63,424/- as monthly salary and his net salary is Rs.16,529/-. The first petitioner is getting Rs.38,288/- as net salary. The petitioners are not entitled to a relief of maintenance.

5.One witness was examined and 10 documents were marked on the side of the petitioners. One witness was examined and 5 documents were marked on the side of the respondent. After considering both sides, the trial Court, has ordered the respondent / husband to pay a sum of Rs.5,000/- each for the petitioners 2 and 3/ minor children and dismissed the petition against the first petitioner / wife. Against the order, the respondent / husband has approached this Court by way of Criminal Revision.

6.On the side of the revision petitioner, it is stated that the Court below has failed to consider the capacity of the revision petitioner/husband and has fixed the maintenance on the gross salary of the revision petitioner. The trial Court has failed to consider Ex.R2, wherein, the net salary is mentioned as Rs.14,429/-. The trial Court has failed to consider that the first respondent / wife is a Government Employee, having sufficient means to maintain the family. It was the first respondent / wife, who deserted the revision petitioner / husband and prayed the impugned order to be set aside.

7. On the side of the revision petitioner/husband, it is further stated that both the revision petitioner and the first respondent are Government servants, working as Teachers, before passing the award, the trial Court has failed to consider the income of the revision petitioner / husband.



8. On the side of the revision respondents, it is stated that the first respondent / wife is a Teacher and that maintenance was not awarded for the first respondent. The revision petitioner is having a property at Uthangudi. Almost Rs.4,00,000/- is pending as arrears, whereas, the revision petitioner has paid only Rs.1,70,000/-. Both the children are studying in Vellammal School. The second respondent/ minor Kavin is having same defect in the eye sight and the first respondent has spent more than One Lakh Rupees for the surgery and prayed the revision petition to be dismissed.

9. The marriage between the revision petitioner and the first respondent is admitted. Paternity of the respondents 2 and 3 is also admitted by the revision petitioner. The revision petitioner is a Government Servant and he is getting a gross salary of Rs.63,424/- per month during the month of August - 2018 and the first respondent is getting a salary of Rs.69,814/- per month during the same period. The contention of the revision petitioner is that after deduction, the net salary is only Rs.16,529/- per month. To give an impression that the revision petitioner is getting only a meagre amount as take home salary, so many deductions are made in the pay. Hence, the deductions cannot be taken into consideration. Since the first respondent is a Government servant, the trial Court has rightly dismissed the petition as against the first respondent / wife.

10. It is seen that the respondent 2 and 3 /minor children are studying. When there is no question regarding the paternity, the revision petitioner is bound to maintain the children. Considering the cost of expenses, the amount fixed by the trial Court is reasonable. In view of the same, there is nothing sufficient enough to interfere in the orders of the trial Court. The revision petitioner / husband is directed to deposit the arrears of maintenance within a period of six weeks from the date of receipt of a copy of this order and he is further directed to pay a sum of Rs.5,000/- for each of the respondents 2 and 3 / minor children on or before 5<sup>th</sup> day of every English Calendar month.

11. With the above direction, this Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

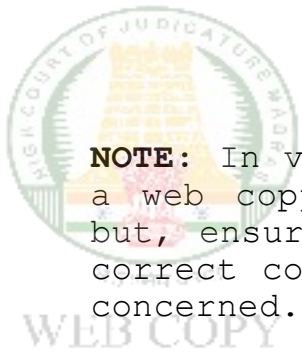
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Sub Assistant Registrar (CS)

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**NOTE:** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judge,  
Family Court, Sivagangai.
2. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

Copy to :

The Section Officer,  
Criminal Section (Records),  
Madurai Bench of Madras High Court,  
Madurai. (2 copies).

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21.12.2021

USK (30.12.2021) 4P 5C