

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

|              |            |
|--------------|------------|
| RESERVED ON  | 24.02.2021 |
| DELIVERED ON | 26.02.2021 |

CORAM :

**THE HONOURABLE MRS.JUSTICE S.ANANTHI****Crl.RC (MD) No. 356 of 2016****and Crl.M.P. (MD) No.4458 of 2016**

S. Senthilvel Murugan

... Petitioner/Respondent

Vs.

1. Muthulakshmi

2. Minor Vignesh S/o.Senthilvel Murugan,  
[ The 2<sup>nd</sup> respondent, Minor Vignesh rep. By his mother  
and natural guardian the 1<sup>st</sup> respondent S.Muthulakshmi]

... Respondents/Petitioners

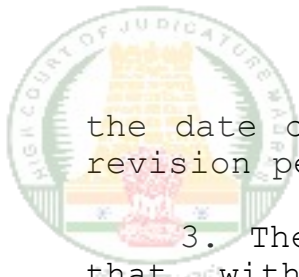
**PRAYER:** Petition filed under Section 397 & 401 of the Criminal Procedure Code, to set aside the order passed in M.C. No. 82 of 2015 on the file of the Family Court, Tirunelveli, dated 15.03.2016 by allowing this criminal revision petition.

For Petitioner : Mr.B. Azhagesh for  
Mr.H. Arumugam  
For Respondents : Mr.T. Selvam

**ORDER**

This criminal revision case has been filed by the petitioner to set aside the order, dated 15.03.2016 in M.C. No. 82 of 2015 passed by the learned Judge, Family Court, Tirunelveli.

2. The brief fact of the case is that the marriage between the petitioner and the 1<sup>st</sup> respondent was solemnized at Muthu Mahal, Suthamalli, Tirunelveli Circle. Out of the wedlock, they are having a minor son/2<sup>nd</sup> respondent herein. Now, the petitioner/husband is working as Lecturer, Sun Engineering College, Nagercoil and he got salary a sum of Rs.30,000/- p.m. Due to family dispute between the petitioner and the 1<sup>st</sup> respondent, the petitioner/husband failed to maintain the respondents. Therefore, the 1<sup>st</sup> respondent was living separately with her mother along with minor son. Thereafter, the petitioner herein has filed a petition in HMOP No. 119 of 2014 seeking divorce and the same was allowed against the respondents herein. Therefore, the 1<sup>st</sup> respondent/wife has filed an application in M.C.No.82 of 2015 seeking maintenance under Section 125 Cr.P.C., directing the petitioner/husband to pay a sum of Rs.17,500/-totally, as maintenance and the same was partly allowed and ordered by directing the petitioner/husband to pay a sum of Rs.6,000/-totally, to the respondents, as maintenance, from the date of petition and the arrear amount shall be paid within a period of two months, from



the date of order. Against the said order, dated 15.03.2016, the revision petitioner/husband is before this Court.

3. The learned counsel appearing for the petitioner submitted that, without considering the case in a proper manner ordered on 15.03.2016 to pay maintenance to a sum of Rs.6,000/-p.m., totally, to the respondents, from the date of petition is against law. He further submitted that the respondent is working as Teacher and earned a sum of Rs.15,000/-per month and hence, she is not entitled to claim maintenance. He further submitted that the Court below has failed to consider the scope of Section 125 of Cr.P.C., and it has ordered to pay maintenance to wife. He further submitted that the petitioner is employed as binding worker in a private company and earned a sum of Rs.5,500/-p.m., thus the maintenance amount is too high. He further submitted that the Court below has failed to see that the petitioner has no other source of income. He further submitted that the Court below has failed to consider the admission of P.W.1 about the employment of petitioner as binding worker. Hence, prays to allow this revision case.

4. The learned counsel appearing for the respondents submitted that they are living separately and the petitioner/husband failed to maintain the respondents. He further submitted that the 1<sup>st</sup> respondent is living with her mother along with her minor son. He further submitted that the respondents are in need of Rs.17,500/-per month towards maintenance amount and the petitioner/husband is capable of paying the maintenance amount to the respondents. Hence, he prays to dismiss this revision case.

5. Heard the learned Counsel appearing for the petitioner/husband and the learned counsel appearing for the respondent/wife and perused the material documents available on record.

6. The revision petitioner has filed this revision case to set aside the order, dated 15.03.2016 in M.C. No. 82 of 2015 passed by the learned Judge, Family Court, Tirunelveli.

7. The respondents/wife and minor son had filed a petition in M.C. No. 82 of 2015 before the learned Judge, Family Court, Tirunelveli, under Section 125 of Cr.P.C., seeking maintenance of Rs.10,000/-to the 1<sup>st</sup> respondent/wife and Rs.7,500/- to the 2<sup>nd</sup> respondent/minor son. After full-fledged trial, the Court below has allowed the maintenance petition and ordered a sum of Rs.3,000/-each, totally a sum of Rs.6000/-p.m., as maintenance to the respondents. Against the said order dated, 15.03.2016, the revision petitioner/husband is before this Court.

8. The relationship between the petitioner/husband and the respondents/wife and minor son was admitted by both parties and the separation was also admitted. It is a bounden duty of the husband to maintain his wife and children. Admittedly, the 2<sup>nd</sup> respondent/minor



son is maintained by her mother. Eventhough, the 1<sup>st</sup> respondent/wife is working, it is a duty of the husband to maintain his wife and minor son. No document was filed to prove the income of both the parties. The maintenance amount Rs.3,000/-p.m., to each is reasonable amount. Eventhough, it is not sufficient, considering the status of revision petitioner it is reasonable. There is no valid ground to interfere with the findings of the learned Judge, Family Court, Tirunelveli. Hence, this Court has no valid reason to interfere with the order passed by the Court below.

9. Accordingly, this Criminal Revision Case stands dismissed and the order passed by the learned Judge, Family Court, Tirunelveli, in M.C. No. 82 of 2015 dated 15.03.2016, is hereby confirmed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

**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, Tirunelveli.

2. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

3. The Section Officer, Criminal Section, (2C)  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.H.ARUMUGAM, Advocate ( SR-8021[F] dated 01/03/2021 )

+1 CC to M/s.T.SELVAN, Advocate ( SR-8228[F] dated 02/03/2021 )

Cr1.RC (MD) No.356 of 2016  
26.02.2021

SMV (CO)

KB(22.03.2021) 3P 6C