

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

RESERVED ON	24.03.2021
DELIVERED ON	01.04.2021

WEB COPY

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI**Crl.RC(MD)No. 758 of 2016**

Vijayakumar ... Petitioner/Respondent/Respondent

Vs.

1. Shanmuga Vadivu
2. Minor Arun Kumar
3. Minor Manasa ... Respondents/Petitioners/Petitioners
[2 & 3 beings minors rep. By their natural guardian
and mother 1st respondent]

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code to call for the records and set aside the order dated 14.03.2016 made in Crl.M.P.No.221 of 2015 in M.C. No.39 of 2008 on the file of the learned Chief Judicial Magistrate, Dindigul and allow the above Revision Petition.

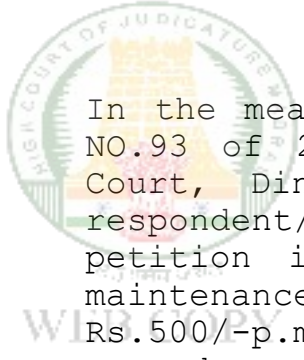
For Petitioner : Mr.Sheik Nasurdeen
for J.Lawrance

For R-1 : Mr.S. Anwar Sameen

ORDER

This Criminal Revision Case has been filed by the revision petitioner to set aside order, dated 14.03.2016 in Crl.M.P.No.221 of 2015 in M.C. No.39 of 2008 passed by the learned Chief Judicial Magistrate, Dindigul.

2. The revision petitioner herein is husband of the first respondent and father of the second and third respondents. The brief fact of the case is that the marriage between the petitioner and the first respondent was solemnized at Silvarpatti, Dindigul Taluk on 01.06.2001. Due to the wedlock, they blessed with the second and third respondents. After marriage, the revision petitioner unnecessarily picked up quarrel with the first respondent. The respondent/wife harassed, tortured by the petitioner/husband by demanding huge dowry. The respondent/wife was driven out from the matrimonial home and living with her parents.



In the meantime, the respondent/wife has filed a petition in HMOP NO.93 of 2007 seeking divorce on the file of the Principal Sub Court, Dindigul the same was ordered in favour of the first respondent/wife. After that, the respondents herein have filed a petition in M.C. No.39 of 2008 seeking maintenance. In the maintenance petition order has been passed and granted a sum of Rs.500/-p.m to the first respondent and each Rs.1,000/-p.m to the second and third respondents. After seven years, the first respondent has filed a petition in Crl.MP No.221 of 2015 in M.C. No.39 of 2008, under Section 127 of Cr.P.C. seeking to enhance the maintenance amount and the afore said petition was allowed by the Court below on 14.03.2016 and enhanced the maintenance amount and the revision petitioner was directed to pay a sum of Rs.1,500/-p.m., to the first respondent and Rs.3,000/-p.m., each, to the second and third respondents. Aggrieved over the said order, dated 14.03.2016, the revision petitioner/husband is before this Court.

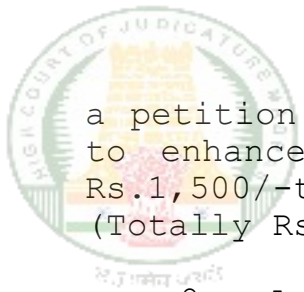
3. The learned counsel appearing for the revision petitioner/husband contended that the Court below has not considered the counter filed by the petitioner and passed the enhancement order and hence, the order passed by the Court below is liable to be set aside. The revision petitioner is a daily coolie earning Rs.6,000/-p.m and the revision petitioner has not run a shop. Hence, prays to allow this revision case.

4. The learned counsel appearing for the first respondent/wife submitted that the prices for the essential commodities has been raised comparing with the year 2009. He further submitted that the second and third respondents are school going students and the first petitioner frequently fallen ill. He further submitted that the revision petitioner is running a grocery shop, namely; Ranjitham Stores, through which he earned a sum of Rs.50,000/-p.m. 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 respondents and perused the material documents available on record.

6. The revision petitioner/husband has filed this Criminal revision case to set aside order, dated 14.03.2016 in Crl.M.P.No.221 of 2015 in M.C. No.39 of 2008 passed by the learned Chief Judicial Magistrate, Dindigul.

7. The respondents herein had filed a petition in Crl.MP No.221 of 2015, under Section 127 of Cr.P.C seeking to enhance the maintenance amount. Initially, the first respondent has filed a petition in M.C. No.39 of 2008 seeking monthly maintenance for her and her two children. The aforesaid maintenance petition was ordered and the revision petitioner was directed to pay a sum of Rs.500/-to the wife and Rs.1,000/-each, to child (Totally Rs.2,500/-). After seven years, the first petitioner/wife has filed



a petition in Crl.MP No. 221 of 2015 in M.C. No.39 of 2008 seeking to enhance the maintenance amount and the same was ordered for Rs.1,500/-to the first respondent and Rs.3,000/-each to child (Totally Rs.7,500/-).

8. As per contention of the learned counsel appearing for the revision petitioner, he has paid the maintenance amount as ordered by the Court below, regularly. He further contended that the first respondent has running a textile shop. To prove his contention, there is no document was filed to show her income.

9. After seven years, the first respondent has filed a petition seeking to enhance the maintenance amount. Considering the present cost of living and also considering the fact that the revision petitioner has to maintain his two children who are minors at the time of deciding enhancement petition. Therefore, the Court below has correctly decided the issue and passed an order. Hence, this Court has no valid ground to interfere with the findings of the Court below.

10. Now, the second respondent has attained major and his age is about 20 years. As per Section, 125 of Cr.P.C, only minor child is entitled to get maintenance amount. Therefore, regarding second respondent, the revision petitioner need not to pay maintenance amount after he attained majority.

11. Finally, this Criminal Revision Case stands dismissed. The order, dated 14.03.2016 in Crl.M.P.No.221 of 2015 in M.C. No.39 of 2008, passed by the learned Chief Judicial Magistrate, Dindigul, is hereby confirmed.

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2021

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 Chief Judicial Magistrate, Dindigul.

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

3. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.ANTONY ARUL RAJ, Advocate (SR-15208[F] dated
01/04/2021)

Order made in
Crl.RC(MD)No.758 of 2016
01.04.2021

KUN(CO)
TR(23.04.2021) 4P 5C