



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 01.02.2021
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.456 of 2018

and

Crl.M.P.(MD)No.6361 of 2018

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Ravikumar

.. Petitioner/Respondent

Vs.

1.P.Kavitha

2.Minor.Mohan Ram

3.Minor.Malarkothai

(Respondents 2 & 3 are minors rep. By
their next friend and natural guardian
by the first respondent herein)

.. Respondents /Petitioners

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to set aside the judgment, dated 18.06.2018, made in M.C.No.3 of 2016 on the file of the Judicial Magistrate, Periyakulam and to set aside the judgment by allowing this Criminal Revision.

For Petitioner : Ms.T.Tamil Malar
legal aid counsel

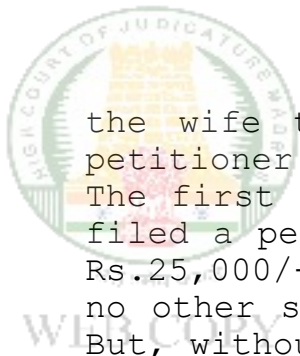
For Respondents : Mr.B.Elankumaran

ORDER

This Criminal Revision Case has been filed against the judgment, dated 18.06.2016, made in M.C.No.3 of 2016 on the file of the Judicial Magistrate, Periyakulam and to set aside the same.

2.The revision petitioner is the husband. The first respondent herein is the wife and the respondents 2 and 3 herein are the minor children of the revision petitioner. The respondents 1 to 3 herein filed a petition before the Judicial Magistrate, Periyakulam, claiming maintenance from the petitioner herein. That petition was numbered as M.C.No.3 of 2016 and after enquiry, the Judicial Magistrate, Periyakulam, ordered the revision petitioner/ husband to pay a sum of Rs.3,000/- as maintenance to the wife and Rs.3,500/- each to the children. Against that impugned order, the petitioner preferred this Revision.

3.On the side of the revision petitioner, it is stated that the revision petitioner has spent money for the studies of the minor respondents. Already the first respondent / wife lodged a complaint before the All Women Police Station, Theni and the Police advised



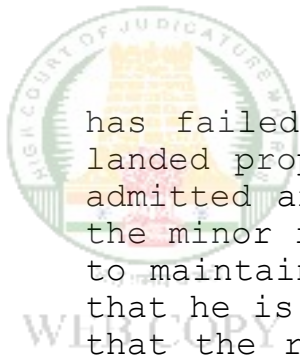
the wife to live along with her husband, even now, the revision petitioner / husband is ready and willing to live with the wife. The first respondent herein / wife suppressed the earlier cases and filed a petition under Section 125 Cr.P.C., claiming maintenance of Rs.25,000/-. The petitioner has retired from Indian Army and he has no other source of income and he has to maintain his aged parents. But, without considering those facts, the Magistrate, passed the impugned order. The first respondent / wife is having valuable property and she is deriving income from that property and without considering the same, the trial Court passed the impugned order and prayed the impugned order to be set aside.

4.On the side of the respondents, it is stated that the first respondent / wife has claimed Rs.25,000/-, whereas, the trial Court ordered only Rs.10,000/-. The second respondent doing his ninth standard and the third respondent is doing his seventh standard. There is an arrears of maintenance to the tune of Rs.1,50,000/-. It is stated that only the grandfather is paying the expenses for the studies of the minor children. There is no proof that the husband purchased a property on behalf of the first respondent / wife and prayed the petition to be dismissed.

5.On perusal of the records, it is seen that the petitioner and the first respondent got married on 18.11.2001 at Balasubramaniyar Temple. There is no dispute regarding the marriage or the paternity of the children. On the side of the revision petitioner, it is admitted that the petitioner is an Ex-Military man. In the counter filed by the petitioner before the trial Court, it is stated that the petitioner is wealthy, even, before marrying the first respondent / wife. It is admitted that the petitioner is running a Poultry Farm and a Match Industry. The defence taken by the revision petitioner before the trial Court is that the revision petitioner spent for the expenses of the children, but, no such document is filed by the revision petitioner. On the side of the revision petitioner two documents, that is, two L.I.C. Policies are marked to prove that the petitioner has taken L.I.C. Policies in the name of the respondents 2 and 3. The trial Court has observed that further premiums were not paid by the revision petitioner.

6.It is seen that Ex.P4 to Ex.P6 are documents relating to the educational expenses for the minor respondents 2 and 3. From Ex.P4 and Ex.P5, it is clear that the revision petitioner has not spent anything for the education of the minors. Ex.P11 to Ex.P14 are documents relating to purchase of the property. The revision petitioner in his counter before the trial Court has admitted that he is having landed properties.

7.The revision petitioner has not filed any documents to show that the revision petitioner has purchased certain properties in the name of his wife / first respondent herein. The revision petitioner



has failed to prove that the first respondent is earning from the landed properties or she is doing any job. Since the marriage is admitted and since there is no dispute regarding the paternity of the minor respondents 2 and 3, the revision petitioner is duty bound to maintain his family. Since the revision petitioner has admitted that he is wealthy, even before the date of marriage and considering that the revision petitioner is an Ex-Military man, having monthly pension, this Court is not inclined to allow this petition.

8. The amount fixed by the trial Court is that the petitioner has to pay a sum of Rs.3,000/- to the first respondent and Rs.3,500/- each to the minor respondents 2 and 3. Considering the cost of living and considering the fact that the respondents 2 and 3 are school going children, the amount already fixed by the trial Court is reasonable. There is nothing sufficient enough to interfere with the order of the trial Court.

9.Hence, the Criminal Revision Case is dismissed. The revision petitioner is directed to deposit the entire arrears amount within a period of two months from the date of receipt of a copy of the order. The revision petitioner is also directed to pay the monthly maintenance amount on or before fifth of every month towards the maintenance to the respondents. Interim maintenance, if any, already deposited by the revision petitioner is to be deducted from the arrears amount. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// 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 Judicial Magistrate,
Periyakulam.

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

<https://hcservices.ecourts.gov.in/hcservices/>



+1 CC to Mr.B.ELAN KUMARAN, Advocate (SR-2971[F] dated 02/02/2021)

+1 CC to M/s.T.TAMIL MALAR, Advocate (SR-3109[F] dated 03/02/2021)

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