



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 15.02.2021

Pronounced on : 22.02.2021

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**THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR**

CRL.RC(MD).No. 107 of 2017 and  
CrI.M.P.(MD).No. 912 of 2017

Kaleel Rahman : Petitioner / Respondent  
Vs.  
Nashreen : Respondent / Petitioner

**PRAYER:-** Criminal Revision Case filed under Section 397 and 401 Cr.P.C., against the order 21.12.2016 in M.C.No.53 of 2016 on the file of the Family Court, Thirunelveli District.

For petitioner : Mr. S.Muthu Malai Raja  
For respondent : Mr. P. Jeyasankar

**ORDER**

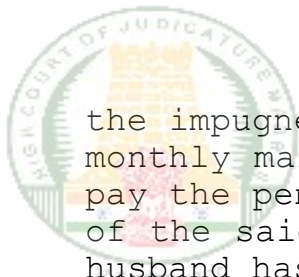
This Criminal Revision is directed against the order passed in M.C.No. 53 of 2016, dated 21.12.2016 on the file of the Family Court, Thirunelveli granting the relief of maintenance.

2. For the sake of convenience, the parties hereinafter will be referred as per their ranking / status before the trial Court.

3. It is not in dispute that the respondent had married the petitioner on 27.04.1997 and that due to their wedlock, they had two sons viz., Javid Bias and Sahid Akil and a daughter Uhanika, that subsequently there arose misunderstanding between the petitioner and the respondent and that they are living separately. The petitioner, by levelling so many allegations against her husband, has laid the case in M.C.No.53 of 2016 under Section 125 Cr.P.,C. claiming maintenance at Rs.1,00,000/- per month.

4. The respondent has filed a counter statement denying the allegations levelled against him and further stated that the petitioner has been living with him in the same house along with their children and that therefore, there is no need to pay any maintenance to the petitioner and prayed to dismiss the petition.

5. The learned Judge of the Family Court, upon considering the evidence and on hearing the arguments of both sides, has passed



the impugned order, dated 21.12.2016 directing the respondent to pay monthly maintenance at Rs.15,000/- from the date of petition and to pay the pending arrears within a period of two months from the date of the said order. Aggrieved by the said order, the respondent / husband has come forward with the present revision.

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6. Whether the impugned order passed in M.C.No.53 of 2016 dated 21.12.2016 on the file of the Family Court, Thirunelveli, granting monthly maintenance at Rs.15,000/- is liable to be revised? is the point for consideration.

7. The learned counsel appearing for the revision petitioner / respondent / husband would contend that the trial Court ought to have considered the evidence of PW.1 as she herself had admitted that the respondent was taking care of her children and that the trial Court has failed to consider that the petitioner / wife has been living with the respondent in the same house and that therefore, the granting of maintenance at Rs.15,000/- per month is liable to be set aside.

8. The learned counsel appearing for the petitioner / wife would submit that the respondent is running a Electrical shop and is getting monthly income at Rs.3,00,000/-, that he is owning house property and is getting rent therefrom and that therefore, the maintenance awarded at Rs.15,000/- per month is liable to be sustained.

9. It is not in dispute that the petitioner / wife is residing in the ground floor whereas the husband is residing in the upstairs of the same house. PW.1 - the petitioner in her cross examination would admit that the respondent alone has been spending for the maintenance of the house property including the payment of Electricity consumption charges.

10. It is also not in dispute that their elder son viz., Javid Bias was studying Engineering Course at FX Engineering College, that their 2<sup>nd</sup> son Sahid Akil was studying 10<sup>th</sup> standard at FX Matriculation School and that their daughter Uhanika was studying 6<sup>th</sup> Std., in the same school. As rightly pointed out by the learned counsel for the respondent, it is pertinent to note that the petitioner as PW.1, at the very beginning of the cross examination, would admit that the Educational expenses of all her three children are being borne by the respondent / husband. The respondent in his counter statement as well as in his evidence has specifically stated that the petitioner was given sufficient food, clothes and also money for household expenses. The respondent in his cross examination would also reiterate that the petitioner was given food and money for her dresses. But, the petitioner in her evidence or in the cross examination of the respondent, has not specifically disputed the said aspects and not even a suggestion was put to the respondent disputing the same.

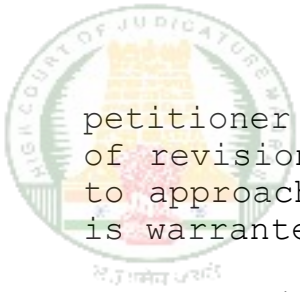


11. The learned Judge has specifically observed that the petitioner was given food, shelter and clothes, but, at the same time she is in need of money for her basic necessities and for medical expenses. No doubt, petitioner has nowhere stated that she is suffering from any health issues and is in need of medical treatment, but, in the cross examination, she would say that her Hemoglobin level was very low and that she is taking treatment for the same. As rightly contended by the respondent side, the petitioner has not produced any materials or medical records to substantiate the same. But at the same time, even in the absence of any specific disease or health problem, we are facing with so many health issues and now a days, it has become a practise in most of the families to allot a particular amount in their budget towards medical expenses.

12. As rightly pointed out by the learned counsel for the petitioner / wife, since they were living separately due to their mis-understanding and as they are not on good terms the petitioner / wife cannot approach the respondent for meeting out the incidental expenses. Simply because, that the petitioner has been provided with food, shelter and clothes, it cannot be said that the petitioner is not entitled to claim any maintenance or that the respondent is not liable for payment of any other amount.

13. The petitioner has alleged that the respondent is running a Bharath Electrical shop and is getting monthly income at Rs.3,00,000/-. The respondent has specifically disputed the said factum and according to him, he is running the said Electrical Shop in a rented premises and after all the expenses he is only getting Rs.10,000/- per month and rent income at Rs.4,000/- totally Rs.14,000/- only. No doubt, the respondent has produced the Trading and Profit and Loss account for the year ended 31.03.2016 and also the Income Tax Return Acknowledgement for the assessment year 2016-2017 under Exs.R2 and R3 respectively and whereunder the respondent's Gross total income is shown as Rs.1,99,866/- and taxable income at Rs.1,24,060/-.

14. As rightly pointed out by the learned counsel for the respondent, the petitioner has not produced any iota of evidence to show that the respondent is getting monthly income at Rs.3,00,000/-. The trial Court by observing that the petitioner is in need of money for her basic necessities and medical expenses, has fixed the monthly maintenance at Rs.15,000/-. As rightly contended by the learned counsel for the respondent, since the petitioner has already been provided with food, shelter and clothes, fixing maintenance at Rs.15,000/- per month for the other basic necessities and medical expenses is definitely on higher side. As already pointed out, the petitioner herself has specifically admitted that the educational expenses of all her three children are being borne by the respondent. On considering the entire facts and circumstances and also the status of the parties, this Court is of the view that the monthly maintenance of Rs.15,000/- awarded to the



petitioner is to be reduced to Rs.12,000/- per month from the date of revision. But at the same time, the petitioner is at liberty to approach the Family Court, for enhancement of maintenance, if it is warranted.

15. Considering the above, this Court decides that the petitioner / wife is entitled to get monthly maintenance at Rs.12,000/- per month and the respondent is directed to pay the maintenance at Rs.12,000/- per month to petitioner from the date of revision. Considering the other facts and circumstances of the case, this Court further decides that the parties are to be directed to bear their own costs.

16. With the above modification, this Criminal Revision Case is disposed of. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

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**To**

The Judge,  
The Family Court,  
Thirunelveli District.

Copy to:

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

CRL.RC(MD).No. 107 of 2017 and  
Cr1.M.P.(MD).No. 912 of 2017  
**22.02.2021**

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