



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 10.02.2021
Pronounced on : 01.03.2021

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.RC(MD) .No. 218 of 2017

M.K. Chandrasekar : Petitioner / Respondent

Vs.

1.Mathavi
2.Minor. C. Jasmi Priyadharshini
3.Minor. C. Prabhakaran
4.Minor Dhanusree
(R2 to R4 rep. by 1st respondent) : Respondents / petitioners

PRAYER:- Criminal Revision Case filed under Section 397(3) and 401 Cr.P.C., against the Judgment passed by the learned Additional Chief Judicial Magistrate, Madurai in M.C.No.7 of 2016, dated 30.01.2017.

For petitioner : No appearance
For respondents : Mr. R. Saravanan

ORDER

This Criminal Revision is directed against the order passed in M.C.No. 7 of 2016, dated 30.01.2017 on the file of the the Additional Chief Judicial Magistrate, Madurai.

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 marriage between the first petitioner and the respondent was solemnized on 07.09.2004 at Muthunayaki Amman Temple, Paravai, Madurai District and that due to their wedlock, the petitioners 2 to 4 were born to them. The petitioner for herself and for her minor children, the petitioners 2 to 4, have filed a petition under Section 125 Cr.P.C., claiming maintenance for herself at Rs.6,000/- and for the minor children at Rs.3,000/- each totally Rs.15,000/-. The respondent has filed a counter statement disputing the claim. The learned Trial Judge, upon considering the evidence and on hearing both sides, has passed



the impugned order on 30.01.2017 directing the respondent to pay monthly maintenance at Rs.3,000/- each to the petitioners 2 to 4 and rejected the claim of the first petitioner. Aggrieved by the said order, the respondent / husband has come forward with the present revision.

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4. The first petitioner / wife and the respondent / husband, as usual in the matrimonial proceedings, have raised and levelled so many allegations against each other. In the present revision, the respondent / husband has not challenged the decision of the trial Court granting maintenance to the minor children, but, he challenged the quantum of maintenance amount fixed by the trial Court.

5. When the matter was listed on 08.01.2021 there was no representation for the respondent / revision petitioner and hence, the case was adjourned to 21.02.2021 and on that day also, there was no representation on behalf of the respondent and again the case was adjourned to 10.02.2021 and even on that day also there was no representation for the respondent. Since the revision case is pending from the year 2017 and as there was no representation for the past three hearings on behalf of the respondent, this Court decided to proceed with the case on hearing of the arguments of the petitioners side and to pass orders on merits. Accordingly, heard the learned counsel appearing for the petitioners.

6. The respondent in the Memorandum of Revision grounds, has taken a main stand that the trial Court has erred in taking the respondent's salary as Rs.30,000/- per month, that though under Ex.R1 Bank statement there were credits towards salary for the amount between Rs.10,600/- and Rs.10,900/-, that the trial Court has failed to consider that the respondent is only getting a sum of Rs.10,600/- as monthly salary and that therefore, directing the respondent to pay at Rs.3,000/- each to the petitioners 2 to 4 totally Rs.9,000/- is incorrect and arbitrary.

7. No doubt, the first petitioner in her main petition has stated that respondent is working at Jayaraj Automobiles Company at Madurai and he is getting monthly salary of Rs.30,000/-, that the respondent is having dry and wet lands and is getting Rs.1,50,000/- per year from agricultural work, that the respondent is also doing money lending business and that he is getting a total income of Rs.5,00,000/- per year.

8. The respondent has specifically disputed the above factual aspects. No doubt, the respondent has produced the Bank Statement for the period between 01.05.2015 and 31.03.2016 and between 01.04.2016 and 15.06.2016 under Ex.R1. As rightly pointed out in the Revision Memorandum, salary payments were given credit in his bank account and for the month of April 2015 and June 2015 Rs.6,601/- and Rs.4,350/- were shown to be deposited in



the respondent bank account on 08.05.2015 and 06.07.2015 and for the month of March and June 2016 a sum of Rs.4,350/- and Rs.6,480/- were credited in the Bank account on 07.03.2016 and 07.06.2016 respectively. There is no entry in the Bank statement that a sum of Rs. 30,000/- was credited. But at the same time, in the Bank statement, two payments were entered allegedly towards salary. Admittedly, the respondent has not chosen to produce the salary certificate or pay slip issued by his employer. The respondent has also not offered any explanation as to why two payments were allegedly credited and the nature of the allowance payable. The respondent has not chosen to summon any officer from his employer Company nor to send for the records to prove his salary and other allowances.

9. When the maintenance case was filed in the year 2016, minor petitioners 2 to 4 were shown to be aged as 11, 10 and 7 years respectively. On considering the entire facts and circumstances and age of the minor petitioners, the status of the parties and the present economic scenario, the fixing of the monthly maintenance at Rs.3,000/- each to the minor petitioners 2 to 4 cannot be found fault with and this Court is in entire agreement with the determination and fixation made by the trial Court. Hence, this Court decides that the revision is devoid of merits and the same is liable to be dismissed. Considering the other facts and circumstances of the case, this Court further decides that parties are to be directed to bear their own costs and the above point is answered accordingly.

10. In the result, this Criminal Revision Case is dismissed. Parties are directed to bear their own costs.

Sd/
Assistant Registrar(AE)

/True copy/

/ /2021
Sub Assistant Registrar(CS-)

To

- 1.The Additional Chief Judicial Magistrate, Madurai.
- 2.The Section officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.SARAVANAN, Advocate (SR-7949[F] dated 01/03/2021)

CRL.RC (MD) .No. 218 of 2017
01.03.2021

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PK/09.03.2021 : 3P/4C

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