



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.02.2021

Pronounced on : 12.03.2021

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.RC(MD).No. 420 of 2017

and

Crl.M.P(MD)No. 4298 of 2017

WEB COPY

S. Sheikh Mohamed Hussain : Revision Petitioner / Respondent

Vs.

1. Mohamed Fathima

2. Minor Shahul Hameed : Respondents / Petitioners
(rep. by Natural Guardian 1st respondent)

PRAYER:- Criminal Revision Case filed under Section 397(1) r/w. 401 Cr.P.C., to call for the records pertaining to the order in M.C.No.60 of 2016, dated 01.02.2017 on the file of the learned Judge, Family Court, Tirunelveli and set aside the same.

For petitioner : Mr.B.N. Raja Mohammed

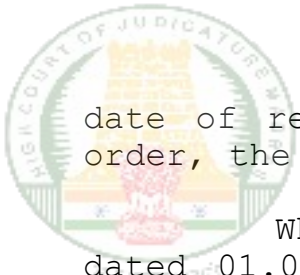
For respondents : No appearance

ORDER

This Criminal Revision is directed against the order passed in M.C.No.60 of 2016, dated 01.02.2017 on the file of the Family Court, Tirunelveli.

2. It is not in dispute that the revision petitioner is the second husband of the first respondent and that the first respondent is the third wife of the revision petitioner. It is also not in dispute that the second respondent was born to the revision petitioner and the first respondent.

3. The first respondent / wife, by invoking Section 125 Cr.P.C., has claimed maintenance for herself and for her minor son in M.C.No. 60 of 2016, on the file of the Family Court, Thirunelveli. The first respondent has claimed monthly maintenance at Rs.15,000/- for herself and Rs.5,000/- for her minor son and Rs.5,000/- towards house rent. The revision petitioner has filed a counter statement disputing the liability as well as the quantum fixed by the trial Court. The learned trial Judge, upon considering the evidence and on hearing both sides has passed the impugned order, dated 01.02.2017 directing the revision petitioner to pay monthly maintenance of Rs.5,000/- to the first respondent; Rs.2,500/- to second respondent and Rs.2,000/-towards house rent all totalling Rs.9,500/- per month from the date of petition and also directed to pay the arrears within a period of two months from the



date of receipt of a copy of that order. Aggrieved by the said order, the husband has come forward with the present revision.

Whether the impugned order passed in M.C.No.60 of 2016, dated 01.02.2017 on the file of the learned Judge, Family Court, Tirunelveli is liable to be set aside? is the point for consideration.

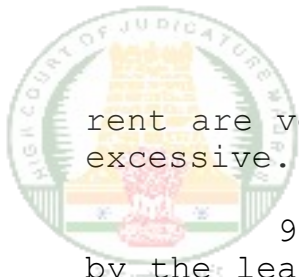
4. Though the revision petitioner, in the memorandum of revision, has challenged the finding of the Family Court that the respondents are entitled to get maintenance from the revision petitioner, the same was not pressed into service. Moreover, the revision petitioner in his Chief Examination before the trial Court would admit categorically that since the first respondent is the wife and the second respondent is his child, he has a duty to maintain them and protect them. The revision petitioner has mainly challenged the maintenance amount fixed by the Family Court, Tirunelveli.

5. It is the specific case of the first respondent that the petitioner is working in a Lorry workshop and is getting salary of Rs.1,500/- per day, that the petitioner is having house property worth about Rs.20,00,000/- and that the petitioner is having necessary capacity to pay the maintenance to the respondents.

6. The defence of the revision petitioner is that the first respondent is running a Idly shop and is getting income of Rs.20,000/- per month and that the revision petitioner is only working as a daily coolie and is getting Rs.250/- per day. It is also not in dispute that the revision petitioner has executed a settlement deed in respect of his immovable property in favour of his parents on 17.12.2012 and subsequently, he executed a cancellation deed on 13.06.2013 and thereby cancelling the settlement deed executed. The trial Court has also observed that the brothers of the first respondent were only working as Auto drivers and that they found it difficult to maintain their family. On considering the evidence adduced, the trial Court has correctly fixed the monthly maintenance of Rs.5,000/- to the first respondent / wife; Rs.2,500/- to the second respondent minor son. Though the respondents have claimed Rs.5,000/- towards the house rent, the Trial Court has granted Rs.2,000/- per month.

7. Though the revision petitioner has alleged that the first respondent is running Idly shop and getting monthly income of Rs.20,000/- per month, he has not produced any evidence to substantiate the same.

8. On considering the entire facts and circumstances, status of the parties and the current economic scenario, fixing the monthly maintenance at Rs.5,000/- to the first respondent and Rs.2,500/- to the second respondent and Rs.2,000/- towards house



rent are very much reasonable and the same cannot be said to be excessive.

9. Hence, this Court decides that the maintenance awarded by the learned Judge of the Family Court, is liable to be sustained and consequently, this Court concludes that the revision petition is liable to be dismissed. Considering the other facts and circumstances, this Court further decides that the parties are 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. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Trp

To

The Judge, Family Court, Tirunelveli.

Copy to

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

order made in
CRL.RC(MD).No. 420 of 2017 and
Crl.M.P(MD)No. 4298 of 2017
12.03.2021

VB (23.03.2021) 3P 4C