



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.02.2021

Pronounced on : 01.03.2021

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.RC(MD).No. 699 of 2017 and
CrI.M.P(MD)No.8021 of 2017

Johnson :Revision Petitioner/ Respondent/Respondent

Vs.

1.Sobi Packiyabai

2.Minor Siptlin Jitsha

: Respondents / petitioners /
Petitioners

(rep. by Natural Guardian 1st respondent)

PRAYER:- Criminal Revision Case filed under Section 397 and 401 Cr.P.C., against the order passed by the learned District Munsif Cum Judicial Magistrate, Eraniel in Cr.M.P.No.8558 of 2014, dated 22.06.2017.

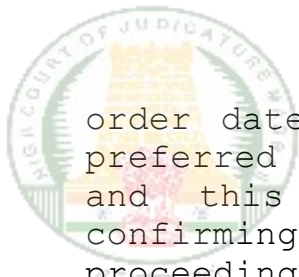
For petitioner : Mr. M.R.Sreenivasan

For respondents : Mr. R. Russel Raj

ORDER

This Criminal Revision is directed against the order passed in Cr.M.P.No.8558 of 2014, dated 22.06.2017, on the file of the District Munsif Cum Judicial Magistrate, Eraniel.

2. It is not in dispute that the marriage between the revision petitioner and the first respondent was solemnized on 28.12.1998 at CSI Church, Pathramangalam as per Christian Rites and Customs, that due to their wedlock the second respondent was born to them on 15.02.2000 and that subsequently, there arose misunderstanding between them and they are living separately. It is also not in dispute that the revision petitioner has filed a petition in IDOP.No. 73 of 2011 claiming divorce on the file of the District Court, Kanyakumari at Nagercoil and after enquiry, the said petition was ordered to be allowed and the marriage between the parties solemnized on 28.12.1998 was dissolved vide



order dated 07.07.2014 and that the first respondent / wife has preferred an appeal before this Court in C.M.A(MD).No.60 of 2015 and this Court has passed the Judgment, dated 11.12.2017 confirming the decree of divorce and directed that the maintenance proceedings instituted by the wife shall be dealt with independently without being influenced by the observations made in the CMA and further directed the husband to pay a sum of Rs.5,00,000/- to the wife towards wedding expenses of their daughter and to execute a deed relinquishment relinquishing his 50% share in the property purchased and that the husband shall abide by the final out come of the proceedings in M.C.No. 14 of 2001 instituted by the wife for enhancement of maintenance.

3. It is also not in dispute that the first respondent / wife has filed a case for herself and for her minor daughter in M.C.No.14 of 2001 claiming maintenance on the file of the District Munsif Cum Judicial Magistrate, Eraniel and that after enquiry, she was granted maintenance amount of Rs.300/- per month, that subsequently, in the application filed in Crl.M.P.No.6668 of 2004 maintenance amount was enhanced from Rs.300/- to Rs.600/- and subsequently in Crl.M.P.No.4579 of 2009 was increased to Rs.750/- for the wife and Rs.1,000/- for minor daughter, that again in Cr.M.P.No. 10084 of 2013 the maintenance amount was enhanced to Rs.1,500/- and Rs.2,000/- to the wife and minor daughter respectively and that above application came to be filed seeking further enhancement of the maintenance.

4. The case of the first respondent / wife is that the petitioner is working as a Senior Conductor in Tamil Nadu Transport Corporation and is getting a salary of Rs.30,417/- per month and batta of Rs.200/- per day, that the second petitioner is studying 10th Standard at Bethelhem English Medium School at Karungal, that the first respondent is in need of Rs.1,00,000/- towards school fees, tuition fees, bus fare, uniform, books, terms fees, guide and note books for the second respondent, that the first respondent's old mother is also living with her and she has to take care of her mother also, that she has no other source of income except the maintenance amount given by the revision petitioner for their livelihood and that therefore, the maintenance amount is to be enhanced to Rs.6,000/- for herself and Rs.10,000/- for the second respondent.

5. The defence of the revision petitioner is that the first respondent is working as a Part time Librarian in Government Library, that she is also working as a Cashier in a private Hospital at Neyoor, that the revision petitioner is only getting Rs.13,140/- after deductions and that therefore, the petition for enhancement is liable to be dismissed.



6. Though the revision petitioner has alleged that the first respondent / wife is working as a part time Librarian and is also working as a Cashier in a private Hospital, he has not produced any *iota* of evidence to substantiate the same. As rightly pointed out by the learned Judicial Magistrate, in Ex.R4 - Salary Certificate for February 2017, the revision petitioner's Gross salary is shown as Rs.42,038/- and after deduction of Rs.7,970/-, he is getting Net pay of Rs.34,068/-. No doubt, the revision petitioner has filed documents to show that he has to repay some loans and he has to incur medical expenses for his father, but at the same time, it is the duty of the revision petitioner / husband to maintain his wife and the daughter. The revision petitioner has not disputed the nature of the expenses listed out by the first respondent with respect to the second respondent's studies. Since the revision petitioner is getting Net pay of Rs.34,068/-, the learned Magistrate has rightly enhanced the maintenance amount to Rs.2,500/- to the first respondent and Rs.4,000/- to the second respondent.

7. Considering the entire facts and circumstances of the case, the status of the parties, the educational expenses of the second respondent and the current economic scenario, the maintenance amount fixed by the learned Judicial Magistrate is very much reasonable and the same cannot said to be excessive. 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 directs the parties are directed to bear their own costs.

8. In the result, the Criminal Revision Case is dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

trp

To

The District Munsif Cum Judicial Magistrate,
Eraniel.

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



+1 CC to Mr.M.R.SREENIVASAN, Advocate (SR-8016[F] dated 01/03/2021)

+1 CC to Mr.R.RUSSEL RAJ, Advocate (SR-8472[F] dated 03/03/2021)

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order made in
CRL.RC(MD) .No. 699 of 2017 and
Cr1.M.P(MD)No.8021 of 2017
01.03.2021

KM (08.03.2021) 4P 4C