



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.03.2021

Pronounced on : 09.04.2021

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.RC(MD).No.713 of 2017 and

CrI.M.P(MD).No. 8192 of 2017

K. Somu : Petitioner / Respondent/Respondent

Vs.

Rani : Respondent / Petitioner/Petitioner

PRAYER:- Criminal Revision Case filed under Section 397 and 401 Cr.P.C., against the order passed in CrI.M.P.No.2454 of 2015 in M.C.No.9 of 1993, dated 04.03.2017 on the file of the learned Judicial Magistrate Court, Sivakasi.

For petitioner : Mr. V. Nagendran

For respondent : Mr. M. Ashok kumar

ORDER

This Criminal Revision case is directed against the order passed in CrI.M.P.No.2454 of 2015 in M.C.No.9 of 1993, dated 04.03.2017 on the file of the learned Judicial Magistrate Court, Sivakasi.

2. For the sake of convenience and brevity, the parties will be referred as per their status / ranking in the trial Court:

3. It is not in dispute that in the case in M.C.No. 9 of 1993 claiming maintenance, the learned Judicial Magistrate, Sivakasi has passed an order dated 07.04.1994, directing the respondent to pay monthly maintenance to the first petitioner, wife at Rs.350/- and Rs.300/- to their son, that the petitioner and her minor son has filed a petition in Cr.M.P.No.3846 of 2002 seeking enhancement of the maintenance amount, that the Court has passed an order dated 10.01.2003 enhancing the monthly maintenance at Rs.400/- to both the petitioner and her son, that the petitioner along with her son have filed another petition in Cr.M.P.No.670 of 2007 seeking enhancement and that the Court has passed an order, dated 01.08.2007 enhancing the monthly maintenance at Rs.500/- to the petitioner as well as her son. Since the petitioner's son had attained majority, the petitioner has filed a petition in Cr.M.P.No. 2454 of 2015 claiming



enhancement of monthly maintenance at Rs.8,000/-.

4. The respondent has filed a counter statement objecting for the enhancement and prayed for dismissal.

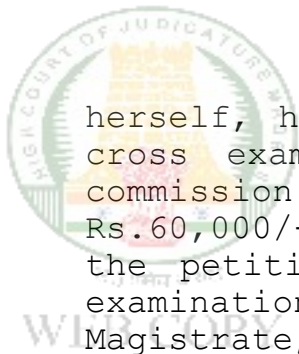
5. The learned Magistrate, upon considering the evidence adduced and on hearing the arguments of both sides, has passed the impugned order on 04.03.2017 directing the respondent to pay monthly maintenance at Rs.6,000/- and to pay the arrears of maintenance within a period of three months from the date of the order. Aggrieved by the said order, the respondent / husband has come forward with the present revision.

6. Whether the quantum of maintenance amount enhanced at Rs.6,000/- per month in the order, dated 04.03.2017 in Cr.M.P.No.2454 of 2015 in M.C.No.9 of 1993 on the file of the Court of the Judicial Magistrate, Sivakasi is liable to be reduced? is the point for consideration.

7. The learned counsel appearing for the revision petitioner would contend that the trial Court has failed to consider the evidence of the respondent that he is earning only Rs.46,000/- per month and is getting Rs.12,000/- only as take home salary, that the finding of the trial Court with regard to the salary of Rs.60,000/- as per the 7th pay commission is absolutely wrong, as there was no implementation of any 7th pay commission recommendation, that the fixation of the enhancement maintenance on the basis of the 7th pay Commission is illegal and prejudicial to the respondent and that the trial Court has failed to consider that the petitioner's son is employed while enhancing the maintenance amount. He would further contend that the fixation of the enhanced maintenance to the tune of Rs.6,000/- on the basis of the expenditure incurred by the petitioner for maintaining her aged mother is illegal and not maintainable.

8. The main contention of the respondent is that the petitioner is working in the Children Integrated Nutrition Centre and is getting monthly salary at Rs.7,000/- after deductions. The petitioner in her cross examination would admit that she has been working at Meenampatti Anganwadi, that in Ex.R1 it has been shown that she is getting monthly salary at Rs.4,472/- and that there are deductions towards Provident Fund and GPF from her salary. But on the other hand, the respondent in his cross examination would admit that his Gross Salary is at Rs.46,009.61/- and that after deductions, he is getting monthly salary at Rs.28,850/-.

9. It is pertinent to mention that the respondent himself would admit in his cross examination that prices have gone up many time over, that his salary has also gone up, that the petitioner alone has been maintaining and taking care of her own mother and



herself, her mother and her son. Moreover, the respondent in his cross examination would specifically admit that as per 7th pay commission recommendations he has been receiving monthly salary at Rs.60,000/-. Thought the respondent in his counter has alleged that the petitioner was in good health, he would admit in his cross examination that the petitioner is not in good health. The learned Magistrate, on considering the price rises and her duty to maintain her mother and her son, has enhanced the monthly maintenance from Rs.500/- to Rs.6,000/-. As already pointed out, there is no dispute about the liability of the respondent to pay maintenance, but the only dispute is with regard to quantum of maintenance.

10. Considering the above facts and circumstances and also the fact that the petitioner is liable to maintain her own mother, status of the parties and the present economic scenario, the monthly maintenance awarded at Rs.6,000/- cannot be found fault with and the amount fixed by the learned Magistrate is very much reasonable and the same cannot be said to be excessive. The revision petitioner / respondent has not canvassed any other reason or ground to impugn the order. Hence, this Court concludes 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.

11. 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 (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

trp

To

1. The Judicial Magistrate Court, Sivakasi.

2. The Section Officer,
Criminal Section,

Madurai Bench of Madras High Court, Madurai. (2 Copies)

+1 CC to M/s.M.ASHOK KUMAR, Advocate (SR-15760[F] dated 09/04/2021)

Order made in

CRL.RC(MD).No.713 of 2017 and

CrI.M.P(MD).No. 8192 of 2017

09.04.2021

CN(04.05.2021) 3P 5C

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