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CrI.RC.No.247 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.RC.No.247 of 2020

Cecily Rani

... petitioner

Vs.

Minor.Infact Bosco

Represented by next friend father

K.Madhalai Arokiasamy

... Respondent

PRAYER:

Criminal Revision filed under Section 397 r/w 401 of Code of Criminal Procedure, to allow the criminal revision petition by setting aside the order dated 10.01.2020 made in MC.No.61 of 2018 on the file of the Family Court, Dharmapuri.

For Petitioner : Mr.V.Sakkarapani

For Respondent : Mr.R.Selvakumar

ORDER

This criminal revision is filed as against the order passed in MC.No.61 of 2018 dated 10.01.2020 on the file of the Family Court, Dharmapuri, thereby ordered monthly maintenance of Rs.10,000/- payable by



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the petitioner in favour of the respondent from the date of filing of the maintenance petition.

2. The respondent's parents got married on 18.10.1999. Due to their wedlock, he was born on 16.10.2007. The petitioner, who is his mother, left him during the year 2011 due to misunderstanding. Both his parents filed petition for divorce and both were dismissed. However, the father filed appeal and the same was allowed and obtained decree of divorce. Though his father is working as teacher, he could not maintain him solely. The petitioner is also working as a teacher and as such, he filed petition for maintenance. The respondent had examined his father as PW1 and marked Ex.P1 to Ex.P13. On the side of the petitioner, she was examined as RW1 and marked Ex.R1 to Ex.R3. On perusal of oral and documentary evidence, the trial court awarded monthly maintenance of Rs.10,000/- payable by the petitioner from the date of the petition i.e. on 02.05.2018. Aggrieved by the same, the present criminal revision has been filed.

3. The learned counsel for the petitioner would submit that the respondent is now aged about 15 years. The trial court calculated monthly maintenance of Rs.20,000/- and 50% payable by the petitioner herein. The



expenditure could not be possible to the tune of Rs.10,000/- for a school going child. His father is also a teacher and is earning a reasonable salary and he could able to maintain the minor respondent. Only on his instigation, the minor son has filed this petition for maintenance. He also pointed out that the expenditure stated in the petition is exorbitant one and the respondent also failed to produce any evidence to show that he is under a caretaker and no certificate was marked before the trial court to substantiate the same. Therefore, the monthly maintenance ordered by the trial court is very high and the same is liable to be set aside.

4. Per contra, the learned counsel for the respondent would submit that when his father purchased a house property in the name of the petitioner, the petitioner did not even spend any money while purchasing the property. Thereafter, due to misunderstanding, the minor son and his father were driven out from the said house. Now she is alone living in the said house. Therefore, the minor son is entitled for all expenditure such as monthly rent, school fees, bus fees, care taker salary, etc., and also medical expenditure. Hence, the trial court rightly awarded maintenance and it is very meagre.



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5. Heard, Mr.V.Sakkarapani, the learned counsel for the petitioner and Mr.R.Selvakumar, the learned counsel for the respondent.

6. Admittedly, the petitioner got married and gave birth to the minor respondent. Due to misunderstanding, they got separated and are living separately. Though both of them filed divorce petition, both were dismissed. However, the respondent's father filed appeal and the same was allowed. That apart, admittedly both are working as Post Graduate Assistant Teacher in a private school. Both are earning a reasonable salary of more than Rs.70,000/-. Though the respondent's father filed suit in respect of the property purchased by him in the name of the petitioner, the same was dismissed. However, the minor son is entitled for maintenance from his own mother and father. The trial court calculated the monthly maintenance of Rs.20,000/- to be shared by both the father and the mother and awarded Rs.10,000/- payable by the petitioner as monthly maintenance. Further, the minor respondent is aged about 15 years. At any cost, the maintenance would not come to the tune of Rs.20,000/- per month for a 10th std boy. Therefore, this Court is inclined to reduce the monthly maintenance payable by the petitioner from Rs.10,000/- to Rs.7,500/-.



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7. Accordingly, only in respect of the quantum of the monthly maintenance, the order dated 10.01.2020 passed in MC.No.61 of 2018 on the file of the Family Court, Dharmapuri is modified and the monthly maintenance of Rs.10,000/- is reduced to Rs.7,500/- (Rupees Seven Thousand and Five Hundred only) payable by the petitioner from the date of the petition i.e. 02.05.2018. The remaining portion of the orders passed by the court below shall remain intact. The respondent is at liberty to take appropriate steps to claim the arrears of monthly maintenance in the manner known to law.

8. In the result, this criminal revision stands partly allowed.

14.11.2022

Speaking/non-speaking
Index : Yes/No
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G.K.ILANTHIRAIYAN, J.

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To

The Family Court,
Dharmapuri.

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