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Crl.R.C.No.391 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.12.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Crl.R.C.No.391 of 2020
and
Crl.M.P.No.2927 of 2020

Shanthi

... Petitioner

Vs.

Mookayi

... Respondent

Prayer:

Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C., to set aside the order passed in C.M.P.No.284 of 2019 in C.R.P.No.13 of 2018 dated 31.10.2019 on the file of the III Additional District and Sessions Judge at Kallakurichi.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Private notice returned
unserved on respondent

ORDER



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This Criminal Revision Case has been filed to set aside the order dated 31.10.2019 passed in C.M.P.No.284 of 2019 in C.R.P.No.13 of 2018 on the file of the III Additional District and Sessions Judge, Villupuram at Kallakurichi.

2. Respondent is the mother. Petitioner is one of her daughter. Respondent/mother filed a maintenance case against her daughters in M.C.No.40 of 2015 on the file of the Judicial Magistrate, Kallakurichi. The learned Magistrate, after enquiry, directed the respondents therein/daughters to pay sum of Rs.2000/- each to the petitioner/mother therein as monthly maintenance amount. Aggrieved over the order of the learned Judicial Magistrate, the petitioner herein has filed the Revision Case in C.R.P.No.13 of 2018 before the learned III Additional District and Sessions Judge, Villupuram @ Kallakurichi. Pending Criminal Revision Petition, the petitioner herein has also filed a petition in C.M.P.No.284 of 2019 under Section 391 Cr.P.C., to receive additional document. The learned Additional Sessions Judge dismissed the said petition. Aggrieved over the same, the petitioner has filed the present Criminal Revision Case before this Court.

3. Admittedly, the respondent is the mother, who filed the



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maintenance case in M.C.No.40 of 2015 on the file of the Judicial Magistrate, Kallakurichi against her daughters who are petitioner herein and another daughter. The learned Magistrate passed an order dated 08.12.2017, directing the daughters/petitioner herein and another daughter to pay monthly maintenance amount of Rs.2000/- each to the respondent/mother. Aggrieved over the order passed by the learned Magistrate, the petitioner herein has filed Criminal Revision Petition in C.R.P.No.13 of 2018 on the file of the III Additional District and Sessions Judge, Villupuram at Kallakurichi. Pending Criminal Revision Case, she has filed the Miscellaneous Petition in C.M.P.No.284 of 2019 to receive additional document and the same was dismissed by the learned Sessions Judge.

4. The learned counsel for the petitioner submitted that the respondent/mother has got sum of Rs.70,000/- while selling the property as one time settlement of maintenance, hence her mother is not entitled to get the maintenance amount as sought for by her and also she has given particular extent of property to one of her daughter namely the sister of the



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petitioner and hence the petitioner is not liable to pay any maintenance amount. The learned Sessions Judge without considering the above facts, dismissed the petition filed by the petitioner.

5. In this case, the respondent/mother has filed the maintenance case against her daughters in the year 2015 and the same was disposed of by the learned Magistrate in the year 2017. According to the petitioner herein the document sought to be received as additional evidence was existing even in the year of 2002 itself. The petitioner has not stated as to why she has not brought this document before the Magistrate, while dealing with the maintenance case which was filed in the year 2015. Despite the maintenance case was pending for two years, the petitioner has not produced any document. Even at the time of filing the Revision Case also, she has not produced any document. After one year from the date of filing of the Criminal Revision Petition, the petitioner has filed the petition under Section 391 Cr.P.C., Even assuming that the respondent mother has got sum of Rs.70,000/- in the year 2002, but the maintenance case was filed in the year 2015, ie., after 13 years, that amount might not be still remain with the



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respondent/mother. Therefore, the petitioner has to prove that on the date of filing the maintenance case by her respondent/mother, her mother was able to maintain herself and she was having sufficient means to maintain herself. Normally, in maintenance cases, the Court can consider on the date of filing the maintenance case, whether the petitioner is able to maintain herself or not. The petitioner herein, has not proved that the respondent/mother was having sufficient means and she was able to maintain herself. Hence, the learned Magistrate has disposed of the maintenance case in favour of the respondent/mother. The sale consideration of the property in the year 2002 may not be with the respondent/mother when she filed the maintenance case in the year 2015. The petitioner has filed the miscellaneous petition under Section 391 Cr.P.C., only to protract the Revision Case during the pendency of the Criminal Revision Case. The learned Sessions Judge considered the facts and circumstances and the materials available on record rightly dismissed the petition.

6. Under these circumstances, this Court do not find any merit in the Criminal Revision Case and the same is liable to be dismissed. The III



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Additional District and Sessions Judge, Villupuram @ Kallakurichi is directed to dispose of the Revision Case in C.R.P.No.13 of 2018 within a month from the date of receipt of a copy of this order, preferably in the month of January 2023 itself. It is made clear that no extension of time will be granted.

7. With the abovesaid direction, the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

20.12.2022

mfa
Index:yes/No
Internet:yes/No

To

The III Additional District and Sessions Judge,
III Additional District and Sessions Court,
Kallakurichi.

P.VELMURUGAN, J.



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