



Crl.R.C.No.390 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.390 of 2020
and
Crl.M.P.No.2924 of 2020

Jothi Venkatesh

... Petitioner

Versus

1.Parameshwari
2.Thiri Shanthini
Minor Represented by her mother
next friend and guardian
Parameshwari

... Respondent

Criminal Revision Case filed under Sections 397 r/w 401 of Criminal Procedure Code to set aside the order made in M.C.No.32 of 2018 dated 26.12.2019 on the file of the Family Court, Namakkal.

For Petitioner : Mr.N.Subbarayalu
For Respondents : Mr.V.Lakshmi Narayanan

ORDER

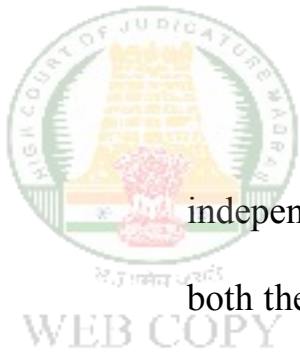
The Criminal Revision Case has been preferred against the order dated 26.12.2019 passed in M.C.No.32 of 2018 on the file of the Family Court, Namakkal.



2. The petitioner is the husband, the first respondent is his wife and the second respondent is their minor daughter.

3. The respondents herein filed a maintenance case in M.C.No.32 of 2018 before the Family Court, Namakkal under Section 125(i) Cr.P.C seeking maintenance. The learned District Judge, after appreciating the entire materials, ordered a sum of Rs.3,000/- per month as maintenance to the first respondent and Rs.5,000/- per month as maintenance to the second respondent. Aggrieved by the same, the petitioner has filed the present revision.

4. The learned counsel for the petitioner submitted that the petitioner, who is a physically challenged person is an unemployed and depending on his parents for his livelihood. The first respondent is a well qualified person and working in Muthayammal College, Rasipuram and she can very well maintain herself. Despite having sufficient means, the respondents have filed the maintenance case only in order to harass the petitioner. The learned Judge failed to consider the documentary evidence that the petitioner is a physically challenged person and he is not able to do any work and he does not have any



independent source of income to maintain himself and ordered maintenance to both the respondents.

5. The learned counsel for the respondents submitted that the petitioner has got ancestral properties and his parents are retired Government employees and getting a sum of Rs.44,000/- as pension. Besides that the petitioner is having own buildings in various places and he is getting Rs.55,000/- per month as rental income. Despite having sufficient means, the petitioner neglected to maintain his wife and child. The Family Court had rightly appreciated the entire oral and documentary evidence and ordered maintenance to the respondents.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondents and also perused the materials available on record.

7. Admittedly, the relationship between the parties and paternity of the second respondent are not in dispute, however, the only dispute is that the income of the petitioner.



8. The main contention raised by the learned counsel for the respondents is that the petitioner is having ancestral properties and getting a sum of Rs.55,000/- as rental income and also the parents of the petitioner are retired Government employees and they are getting a sum of Rs.44,000/- as pension and the petitioner is having sufficient means, whereas, the learned counsel for the petitioner submitted that the first respondent is a working woman and is earning sufficient income and she is able to maintain herself. However, both the petitioner and the first respondent have not disclosed their assets and liabilities to ascertain their income.

9. If a person withholds best evidence, but without production of the documentary evidence before the Court, the Court can draw adverse inference and non production of the material documents pertaining to the properties owned by the petitioner cannot be taken into consideration. Here, the petitioner had not produced any documentary evidence to prove his case.

10. Considering the facts and circumstances and also considering the fact that the petitioner has not produced any documentary evidence to substantiate that the first respondent is working and she is able to maintain



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herself, this Court does not find any perversity or infirmity in the impugned order passed by the Court below and there is no merit in the revision and the same is liable to be dismissed. Accordingly, this Criminal Revision Case is dismissed.

11. The petitioner is directed to pay entire arrears amount within a period of one month from the date of receipt of a copy of this order, failing which, the learned Magistrate is directed to issue warrant and execute the order in accordance with law. Consequently, connected miscellaneous petition is closed.

16.12.2022

Index : Yes/No
Speaking Order/Non Speaking Order
ms

To

The Judge,
Family Court,
Namakkal.



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P.VELMURUGAN, J.

ms

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