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CrI.R.C.No.374 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.374 of 2020

and

CrI.M.P.No.2742 of 2020

S.Rathinavelu

... Petitioner

Versus

1.Porkalai @ Parimala

2.Deepika

... Respondents

Criminal Revision Case filed under Sections 397 r/w 401 Cr.P.C to set aside the order dated 28.12.2018 made in M.C.No.14 of 2016 on the file of the Family Court, Puducherry.

For Petitioner : Mr.T.M.Naveen

For Respondent : No appearance

ORDER

The Criminal Revision Case is preferred against the order dated 28.12.2018 made in M.C.No.14 of 2016 on the file of the Family Court, Puducherry.



2. The petitioner is the husband, the first respondent is the wife and the second respondent is the daughter of the petitioner. The respondents filed a maintenance case in M.C.No.14 of 2016 before the Family Court, Puducherry seeking maintenance. The Family Court, after appreciating the entire materials ordered a sum of Rs.3,000/- per month to the first respondent and Rs.5,000/- per month to the second respondent as maintenance. Aggrieved by the same, the petitioner has filed the present revision.

3. The learned counsel for the petitioner submitted that the second respondent is not entitled for maintenance, since she has already attained majority on the date of filing the maintenance case itself. The Family Court without appreciating the same, ordered maintenance to the second respondent. He further submitted that the petitioner has already settled sufficient properties to the first respondent/wife. The first respondent is also doing money lending business and having sufficient means to maintain herself. In order to substantiate his contention, the learned counsel for the petitioner has produced the Statement of Account of the first respondent/wife. Therefore, she is not entitled to get any maintenance from the petitioner.



4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Despite service of notice on the respondents and their names have been printed in the cause list, there is no representation either in person or through counsel.

6. Admittedly, the relationship between the parties are not in dispute. However, the only dispute is the entitlement of the respondents for getting maintenance amount from the petitioner.

7. On a perusal of the records, it is seen that in the cause title of the maintenance case, the age of the second respondent was mentioned as 19 years and also on perusal of the Statement of Account of the first petitioner which was annexed in the typed set of papers would clearly shows that the first respondent/wife is having sufficient money in the Bank and she is able to maintain herself. In maintenance cases, if the wife, who is unable to maintain herself is entitled for maintenance and it is the moral and legal duty of the husband to maintain her wife as if she is residing along with him. However, in



the case on hand, despite having sufficient means the first respondent seeking maintenance. Further, at the time of filing of the maintenance case, the second respondent attained majority and she has not given any explanation as to why she did not file the petition seeking maintenance during her minority.

8. Considering the facts and circumstances, this Court finds that the respondents have not made out any ingredients under Section 125 Cr.P.C., whereas, the petitioner has substantiated his claim that the first respondent is having sufficient means to maintain herself and also the second respondent attained majority even on the date of filing the case for maintenance.

9. In the light of the above, this Criminal Revision Case is allowed by setting aside the order dated 28.12.2018 passed in M.C.No.14 of 2016 by the learned Judge, Family Court, Puducherry. Consequently, connected miscellaneous petition is closed.

14.12.2022

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

The Judge,
Family Court,
Puducherry.



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P.VELMURUGAN, J.

ms

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