



WEB COPY



CrI.RC.No.475 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM:

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

CrI.RC.No.475 of 2020

S.Maragatham

... petitioner

Vs.

N.Chandran

... Respondent

PRAYER: Criminal Revision filed under Sections 397 & 401 of Code of Criminal Procedure, to call for the records relating to the order dated 28.02.2020 made in MC.No.5 of 2014 on the file of the learned Judicial Magistrate No.I, Sankari and to set aside the same by enhancing the maintenance amount as prayed for in MC.No.5 of 2014.

For Petitioner : Ms.Adhisree
for Mr.N.Manokaran

For Respondent : Mr.S.Kalyanaraman

ORDER

This criminal revision is filed as against the judgment passed in MC.No.5 of 2014 on the file of the learned Judicial Magistrate-I, Sankari dated



Crl.RC.No.475 of 2020

28.02.2020, thereby ordered monthly maintenance of Rs.3,000/- in favour of the petitioner.

2. The petitioner got married the respondent on 12.12.1986. Due to their wedlock, they gave birth to a female child. Thereafter, due to misunderstanding, the petitioner and her daughter were driven out from the matrimonial house since the respondent was having illicit intimacy with another lady. The respondent assaulted the petitioner on several occasions when the petitioner questioned about his illicit intimacy with another lady. The respondent is a lawyer. Thereafter the petitioner was driven out along with her daughter from the matrimonial home. The respondent did not even spend a single paise for her educational expenditure and their family expenditures. Therefore the petitioner could not able to maintain herself and filed petition for maintenance.

3. In support of her case, she examined PW1 to PW3 and marked Ex.P1 to Ex.P13. On the side of the respondent, he had examined RW1 to RW4 and marked Ex.R1 to Ex.R11. On perusal of oral and documentary evidence, the trial court ordered to pay monthly maintenance of Rs.3,000/- from the date



Crl.RC.No.475 of 2020

of the order. The petitioner filed this petition for enhancement of the monthly maintenance.

4. The learned counsel for the petitioner would submit that the respondent is a practicing advocate and he completed more than 30 years of service. Therefore, he is capable of earning Rs.1,00,000/- per month. That apart, even after the order passed by the trial court, the respondent did not even pay a single paise. Even then, without considering the above facts and circumstances of the case, the trial court awarded only a meagre amount of Rs.3,000/- as monthly maintenance.

5. Per contra, the learned counsel for the respondent would submit that the respondent marked Ex.R10 to Ex.R11 in support of his case. The petitioner is a partner in a transport business and she is having very good income and she can able to maintain herself all alone. Even after separation, she did not choose to file any petition for maintenance till 2014. Only in the year 2014, she filed petition for maintenance, that too after seven years from their separation. When the petitioner was able to maintain herself in the initial stage, it shows that she is having permanent income. The respondent completed his



Crl.RC.No.475 of 2020

law degree and he is not practising and he is under financial crisis. He relied upon Ex.R1- to Ex.R11 including statement of accounts of the petitioner and submitted that before filing maintenance petition, she had withdrawn Rs.25,00,000/- from the account and she also had fixed deposits in her name. Therefore, the court below rightly awarded maintenance of Rs.3,000/- per month.

6. Heard, Ms.Adhisree, the learned counsel for the petitioner, and Mr. S.Kalyanaraman, the learned counsel for the respondent.

7. Admittedly the petitioner got married the respondent on 12.12.1986 and gave birth to a female child on 21.10.1987. The respondent is a practicing advocate. Now the daughter is aged about 30 years. However, the petitioner could not able to maintain herself and filed petition for maintenance in the year 2014. Unfortunately, the trial court disposed of the maintenance case only in the year 2020 by order dated 28.02.2020. The trial court also ordered maintenance only from the date of the order. Even then, the respondent did not even pay any single paise as maintenance to the petitioner. Though the respondent contended that the petitioner is a partner of a transport busienss and



Crl.RC.No.475 of 2020

the respondent failed to produce any single peice of evidence to substantiate the same. That apart, the petitioner was driven out from matrimonial home and she is living separately. Therefore a sum of Rs.3,000/- is very meage and very low. Further, the respondent is a practising advocate. Therefore, this Court is inclined to enhance the monthly maintenance from Rs.3,000/- to Rs.5,000/-.

8. Accordingly, this criminal revision is allowed and the monthly maintenance awarded by the learned Judicial Magistrate No.I, Sankari in MC.No.5 of 2014 dated 28.02.2020 is enhanced from Rs.3,000/- to Rs.5,000/- (Rupees Five Thousand only) payable by the respondent from the date of the order passed by the trial court. The respondent is directed to settle the arrears of monthly maintenance within the period of eight weeks from the date of receipt of copy of this order. The petitioner is also at liberty to file an appropriate petition to execute the order of maintenance.

02.12.2022

Speaking/non-speaking
Index : Yes/No
Internet : Yes
lok



WEB COPY



Crl.RC.No.475 of 2020

G.K.ILANTHIRAIYAN, J.

lok

To

The learned Judicial Magistrate No.I,
Sankari

Crl.RC.No.475 of 2020

02.12.2022