



Crl.O.P No.23960 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **07.12.2022**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.23960 of 2021
and Crl.M.P.No.13205 of 2021

Kesavamoorthi

... Petitioner

Vs.

1. Sudha Parameswari
2. Minor Pirarthana
3. Minor Dhanusri

... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order dated 27.08.2020 on the file of the learned Principal Sessions Judge, Tiruppur made in C.R.P. No.1 / 2020 in confirming the order of the learned Chief Judicial Magistrate, Tiruppur in M.C. No.56 of 2018 dated 12.11.2019 and allow this Criminal Original Petition.

For Petitioner : Mr.J.Franklin

For Respondents : No appearance



ORDER

This Criminal Original Petition has been filed to set aside the order dated 27.08.2020 on the file of the learned Principal Sessions Judge, Tiruppur made in C.R.P. No.1 / 2020 in confirming the order of the learned Chief Judicial Magistrate, Tiruppur in M.C. No.56 of 2018 dated 12.11.2019 and allow this Criminal Original Petition.

2. The petitioner is the husband against whom the respondents have filed a maintenance case in M.C. No.56 of 2018 before the Chief Judicial Magistrate, Tiruppur, for claiming maintenance. The first respondent is the wife of the petitioner and the second and third respondents are the children of the petitioner.

3. After hearing the maintenance petition, an order has been passed by the learned Chief Judicial Magistrate by awarding an amount of Rs.5,000/- per month as maintenance to each of the respondents to be payable by the petitioner. Aggrieved over the same, a Civil Revision Petition in C.R.P. No.01/2020 on the file of the Principal Sessions Judge, Tiruppur has also been filed by challenging the order in M.C. No.56 of 2018 and the same was also dismissed on 27.08.2020 by confirming the order of the learned Chief Judicial Magistrate. Aggrieved over that the present



petition has been filed.

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4. The learned counsel for the petitioner submitted that at present the petitioner and the respondents are living together as a family. However, there is no representation on behalf of the respondents to confirm the said facts now submitted by the learned counsel for the petitioner.

5. So far as the merits of this petition is concerned, it is seen from the order of the Principal Sessions Judge that at the time when the petition for maintenance was filed, the first respondent wife had been living separately along with her children due to the alleged ill treatment meted out to her by the petitioner. Since the petitioner is said to be in the habit of consuming alcohol and abusing the first respondent in filthy language and disturbing the peace of the respondents, the first respondent had chosen to get out of the matrimonial home and started to live separately. Since she did not have any occupation of her own and in order to sustain herself and the children she had filed a petition for maintenance.

6. The learned Chief Judicial Magistrate had rightly appreciated the



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evidence and passed the order. The petitioner as the husband of the first respondent and the father of the respondents 2 and 3, got a bounden duty to maintain the respondents. The petitioner is said to be working in a private company and is earning Rs.40,000/- per month. Since the petitioner did not satisfy the Court that the first respondent is capable of maintaining herself and the children with her own earning, it is reasonable on the part of the Magistrate to fix the maintenance by taking into account of the earning capacity of the petitioner and awarding a maintenance at Rs.5,000/- per month for each of the respondents. Since the same is reasonable, by taking into consideration of the cost of living and educational expenses of respondents 2 and 3, the learned Principal Sessions Judge had confirmed the same.

7. Since both the Courts below have appreciated the matter rightly and the quantum of maintenance ordered is also very reasonable in the given context of the cost of living and other expenses surrounding the life of the respondents, I feel the impugned order does not require any interference.



Crl.O.P No.23960 of 2022

8. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petition is closed.

WEB COPY

07.12.2022

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

1. The Principal Sessions Judge,
Tiruppur.

2.The Public Prosecutor,
High Court, Madras.



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Crl.O.P No.23960 of 2021

R.N.MANJULA, J.,

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Crl.O.P No.23960 of 2021

07.12.2022