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Crl.RC.No.513 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2022

Coram:

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Criminal Revision Case No.513 of 2021

Mohana Sundari

... Petitioner

Vs.

K.Thirumal

... Respondent

Prayer: Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, praying to call for the records, set aside the order of the V Additional Family Court in M.P.No.303 of 2020 in M.C.No.605 of 2019 dated 10.03.2021 and enhance the maintenance awarded with respect to the minor child from Rs.7,000/- per month to Rs.20,000/- per month.

For Petitioner : Ms.B.Poongkhulali

For Respondent : Mr.Jerry V.V.Sundar

ORDER

The Criminal Revision Case has been filed seeking to set aside the order of the V Additional Family Court, Chennai, in M.P.No.303 of 2020 in M.C.No.605 of 2019 dated 10.03.2021, dismissing the petition filed under Section 127(1) Cr.P.C. for enhancement of the maintenance amount awarded to the 2nd minor son from Rs.7,000/- per month to Rs.25,000/- per



month.

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2. The petitioner is wife and the respondent is her husband. The marriage between the petitioner and the respondent was solemnized on 03.09.1998 as per the Hindu Rites and Customs and out of their wedlock, they got two sons. Subsequently, due to some misunderstanding, the petitioner and the respondent got separated and they have been living separately and that the two children are living with the petitioner. Therefore, the petitioner along with her two children, filed a petition before the V Additional Family Court, Chennai in M.C.No.605 of 2019, for maintenance and the Family Court after enquiry, passed the order of maintenance of Rs.8,500/- per month to the petitioner/wife and Rs.7,000/- per month, each to the two children by order dated 19.02.2020. Again the petitioner filed a petition before the Family Court in M.P.No.303 of 2020 under Section 127(1) Cr.P.C. for the enhancement of maintenance amount awarded to the 2nd minor son from Rs.7,000/- per month to Rs.25,000/- per month stating that the 2nd minor son has got admission in a reputed CBSE School in Chennai and the petitioner has paid school fees of Rs.81,675/- towards first term and Rs.30,900/- towards second term. Further, due to Covid Crisis,



most of the classes are conducted through online and hence, the petitioner purchased a smart phone for a sum of Rs.21,500/- and ancillaries viz., Pendrive, phone cover and insurance for Rs.3250/- and internet recharge comes up to Rs.600/- per month. In the said petition, the respondent had filed a counter affidavit stating that the respondent was regularly paying the maintenance as ordered by the Family Court without any default. The respondent is earning only Rs.46,000/- per month out of which, he is already paying Rs.22,500/- per month towards maintenance to the petitioner and the two children. It is further stated that he has taken loan of Rs.3 lakhs for the payment of arrears of Rs.2,32,000/- to the petitioner and he has been paying EMI of Rs.8,550/- per month. Moreover, due to Covid-19, the Company in which, he is working, has stopped bonus and reduced all the allowances and even though, he is overburdened, he paid the entire arrears and he is regularly paying the monthly maintenance as ordered by the Family Court. Therefore, he cannot pay more maintenance and that there is no change in circumstances. The learned Family Court, after considering the income of the respondent, dismissed the petition by order dated 10.03.2021. Aggrieved over the same, the present revision has been filed by the petitioner before this Court.



3. Heard the learned counsel for the petitioner and the learned counsel for the respondent and also perused the materials on record.

4. Admittedly, the petitioner and the respondent are wife and husband. The marriage between the parties is not in dispute; the relationship of the parties is also not disputed. They both are living separately and the two sons are living with the petitioner. In the year 2019, the petitioner along with her two sons had filed a petition before the Family Court for maintenance in M.C.No.605 of 2019 and the Family Court after enquiry, ordered maintenance of Rs.8,500/- per month to the petitioner/wife and Rs.7,000/- per month, each to the two sons by order dated 19.02.2020. Subsequently, the respondent also complied with the order of the Family Court and paid the entire arrear amount and he has been paying the maintenance regularly.

5. A perusal of the record shows that the order of maintenance has been passed on 19.02.2020. Immediately, within a short period of time, the petitioner has again filed another petition before the Family Court in M.P.No.303 of 2020 under Section 127(1) Cr.P.C. for enhancement of the



maintenance ordered in respect of 2nd minor son stating that there had been change of circumstances that the incidental educational expenses have been raised and therefore, the respondent has to pay more amount of maintenance insofar as the 2nd minor son is concerned.

6. It is seen that during the period of maintenance order, the respondent was getting salary of Rs.46,000/- per month. The order of maintenance has been passed in the year 2020 viz., 19.02.2020 which is admittedly Covid-19 pandemic situation. Even then, the respondent has paid all the arrears of maintenance and he is also paying the monthly maintenance of Rs.22,500/- per month regularly to the petitioner and his sons. It is also seen that the respondent is paying EMI of Rs.8,550/- per month towards the loan he had availed for payment of arrears and that the respondent has to meet out his food, medical and other expenses within the remaining amount. Further, it is seen that due to Covid-19, the company in which the respondent is working, has stopped bonus and also reduced other allowances. Therefore, the Family Court has rightly dismissed the petition filed by the petitioner for enhancement of maintenance.



7. This Court finds that the the petitioner has not made out any valid grounds to interfere with the order passed by the Family Court and there is no perversity, illegality or infirmity in the order passed by the Family Court.

Therefore, the revision is liable to be dismissed.

8. Accordingly, this Criminal Revision Case is dismissed.

9. However, since the petitioner is seeking enhancement of maintenance only for the educational expenses of the 2nd minor son and the respondent is none other than the father of the minor son, this Court advises the respondent to consider the request of the petitioner for the welfare of his son and if possible, he may extend his financial support towards the educational expenses of the minor son.

20.09.2022

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Crl.RC.No.513 of 2



P.VELMURUGAN,J.

ksa-2

To

V Additional Family Court
Chennai

Criminal Revision Case No.513 of 2021

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7/7