



Crl.R.C.No.1495 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1495 of 2022

and

Crl.M.P.No.17204 of 2022

P.Pradeepkumar

... Petitioner

Versus

1.V.Selvi

2.P.Sreejith

3.P.Pradeedha

... Respondents

Criminal Revision Case filed under Sections 397 r/w 401 of Criminal Procedure Code to set aside the order dated 22.10.2021 passed by the learned Sessions Judge, Special Court under POCSO Act, Nagapattinam, Full Additional Charge of Family Court, Nagapattinam in M.C.No.1 of 2019.

For Petitioners : Mr.S.Giritharan

For Respondents : Mr.S.Arivazhagan

ORDER

This Criminal Revision Case has been preferred challenging the order dated 22.10.2021 passed by the learned Sessions Judge, Special Court under POCSO Act, Nagapattinam, Full Additional Charge of Family Court, Nagapattinam in M.C.No.1 of 2019.

2. The petitioner is the husband and the first respondent is his wife and



the respondents 2 and 3 are their children.

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3. The respondents filed a petition in M.C.No.1 of 2019 under Section 125 Cr.P.C seeking maintenance of Rs.6,000/- per month to the first respondent and Rs.4,000/- each to the respondents 2 and 3 per month before the Family Court, Nagapattinam. After full-fledged trial, the learned Magistrate partly allowed the petition as follows :

" (i) Towards the maintenance of 1st petitioner, the respondent is directed to pay a sum of Rs.6,000/- (Rupees six thousand only) per month with effect from the date of petition i.e. 28.07.2007 to 06.11.2013 and thereafter, at the rate of Rs.12,000/- (Rupees twelve thousand only) per month. The amount of maintenance of Rs.12,000/- (Rupees twelve thousand only) per month shall be paid by the respondent hereafter in the bank account of 1st petitioner month after month on or before 5th day of each English calendar month. The arrears of amount of maintenance from date of petition till date of order shall be paid by the respondent in the bank account of 1st petitioner within 6 months from today.

(ii) Towards the maintenance of 2nd petitioner, the respondent shall pay Rs.4,000/- (Rupees four thousand only) per month with effect from date of petition i.e. 28.07.2007 to 05.10.2008 in the bank account of the 2nd petitioner within 06 months from today, after adjustment of interim maintenance if any, paid by the respondent.

(iii) Towards the maintenance of 3rd petitioner, the respondent is directed to pay a sum of Rs.4,000/-



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Crl.R.C.No.1495 of 2022

(Rupees four thousand only) per month with effect from the date of petition i.e. 28.07.2007 to 06.11.2013 and thereafter, at the rate of Rs.15,000/- (Rupees fifteen thousand only) per month. The amount of maintenance of Rs.15,000/- (Rupees fifteen thousand only) per month shall be paid by the respondent hereafter in the bank account of 3rd petitioner month after month on or before 05th day of each English calendar month. The arrears of amount of maintenance from date of petition till date of order shall be paid by the respondent in the bank account of 3rd petitioner within 06 months from today, after adjustment of interim maintenance, if any, paid by the respondent.

(iv) Further, the respondent shall pay to the 1st petitioner a sum of Rs.20,000/- (Rupees twenty thousand only) towards the expenses of the proceeding."

Aggrieved by the said order, the petitioner/husband has filed the present revision before this Court.

4. The learned counsel for the petitioner/husband submitted that due to Covid-19 pandemic situation, the petitioner lost his business and also he got fracture in his leg and that is the reason why he is not able to maintain her wife and children. The petitioner is not a man of means. The Family Court failed to appreciate the entire oral and documentary evidence put forth by the petitioner/respondent therein and passed the order. Since all the children have



attained majority and he also got divorce from the first respondent/wife on the ground of cruelty, the petitioner is not liable to pay maintenance to the respondents.

5. The learned counsel for the respondents submitted that the petitioner has not denied that about running of business. Further he is having a two storied building and getting income through the same. The petitioner has not proved before the Family Court that he is not having sufficient means to maintain his wife and children. Therefore, the Family Court after considering the facts and circumstances, found that both the petitioner and the respondents are living separately; the petitioner has not established that despite having sufficient means, the respondents are unable to maintain themselves. Further, considering the financial status of the petitioner, the Family Court awarded maintenance to the respondents. Even after passing the said order, the petitioner has not paid any arrears to the respondents and he purposefully filed the present revision only to protract the payment of maintenance.

6. Heard the learned counsel appearing for the petitioner and the



learned counsel appearing for the respondents and also perused the materials available on record.

7. Admittedly, the relationship between the parties are not in dispute. The petitioner is a man of means. He has not proved that he was not having sufficient means to maintain his wife and children and he has also not proved that the respondents are having sufficient means to maintain themselves.

8. The scope of Section 125 Cr.P.C is a summary in nature and its object itself is to decide within a short span of time. The Hon'ble Supreme Court in the case of ***Rajnesh vs. Neha and another*** reported in ***(2021) 2 SCC 324*** has held that both the parties have to disclose their Affidavit of Assets and Liabilities as in the Enclosure I to III. Based on the Assets and Liabilities, if the the relationship of the parties are not in dispute, the Court can pass the maintenance on par with the status of the husband.

9. On a careful perusal of the records, it seen that the relationship between the parties are not in dispute and the petitioner is having sufficient means. Despite having sufficient means, the petitioner did not maintain his



wife and children, who are unable to maintain themselves.

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10. At the time of passing orders, the learned counsel for the petitioner submitted that the petitioner is now ready to take care of his children. However, the records show that the petitioner has not taken any effective steps to take custody of the children. As per the grounds of revision, now the second respondent is aged 28 years and third respondent is 23 years and they attained majority. Even after passing of order by the Family Court, the respondents are not able to get any maintenance amount from the petitioner.

11. It is unfortunate to state that now-a-days neither the members of the Bar nor the Family Courts understand the scope and object of Section 125 Cr.P.C and keeping the petitions pending for years. In most of the maintenance cases, at the time of filing the case, the children are almost minors in tender age, but at the time of disposal of the matter, they attain majority and also some of them got married. Even after their marriage they are not in a position to get any maintenance, instead of the order passed earlier by the Family Court.

12. In the light of the above facts and circumstances, this Court does not



Crl.R.C.No.1495 of 2022

find any perversity or infirmity in the order passed by the Court below and hence, the revision is liable to be dismissed. Accordingly, this Criminal Revision Case is dismissed in *limine* and the order dated 22.10.2021 passed by the learned Sessions Judge, Special Court under POCSO Act, Nagapattinam, Full Additional Charge of Family Court, Nagapattinam in M.C.No.1 of 2019 is confirmed. The petitioner/husband is directed to pay the entire arrears amount within a period of three months from today, failing which, the learned Judge, Family Court, Nagapattinam is directed to issue warrant to the petitioner and execute the order in accordance with law, without filing any formal application. Consequently, connected miscellaneous petition is closed.

11.11.2022

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

Note: Issue order copy on 14.11.2022



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Crl.R.C.No.1495 of 2022

P.VELMURUGAN, J.

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To

1.The Sessions Judge,
Special Court under POCSO Act,
Nagapattinam,
(FAC)Family Court,
Nagapattinam.

2.The Judge,
Family Court,
Nagapattinam.

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and
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