



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.01.2022

CORAM :

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Cr1.R.C.No.722 of 2017

Murugesan

.. Petitioner/1st Respondent

Vs.

1.Krishnaveni
W/o.Murugesan

2.Minor M.Kavitha
D/o.Murugesan

3.Minor M.Sivasankar
S/o.Murugesan

.. Respondents/Petitioner

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to set aside the order dated 04.08.2016 made in C.A.No.177 of 2015 passed by the learned First Additional District Judge, Coimbatore, confirming the order dated 07.07.2015 made in C.M.P.No.8574 of 2014 in D.V.A.No.63 of 2014 on the file of the learned Judicial Magistrate No.7, Coimbatore.

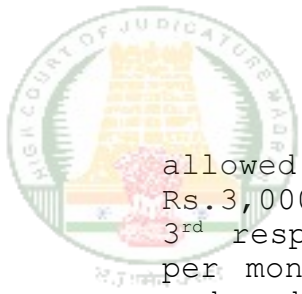
For Petitioner : Mr.N.Manokaran

For Respondents : No appearance

O R D E R

This Criminal Revision Case has been preferred challenging the order of the learned First Additional District Judge, Coimbatore, dated 04.08.2016 made in C.A.No.177 of 2015, confirming the order of the learned Judicial Magistrate No.7, Coimbatore, dated 07.07.2014 made in C.M.P.No.8574 of 2015 in D.V.A.No.63 of 2014.

2. The revision petitioner is the husband against whom the respondents/petitioners have filed a domestic violence application by alleging that the revision petitioner is not maintaining the family. While the main petition was pending, a petition was filed for interim maintenance and that has been



allowed by the learned Magistrate by fixing the maintenance at Rs.3,000/- for the 1st respondent and Rs.2,000/- each for 2nd and 3rd respondents, coming together for a total sum of Rs.7,000/- per month. However, the revision petitioner has challenged the order by way of preferring appeal before the learned First Additional District Judge, in C.A.No.177 of 2015 and the same was dismissed on 04.08.2016 and the order of the learned Judicial Magistrate was confirmed. Aggrieved over the same, the revision petitioner / husband has preferred the present revision case.

3. Heard the learned counsel for the revision petitioner.

4. The learned counsel for the revision petitioner submitted that the 1st respondent/wife refused to join with the petitioner and she has got her own source of income to maintain herself and her children. It is further submitted that the petitioner does not derive any income from the agricultural activities and it is not possible for him even to meet out the monthly maintenance as ordered by the Court.

5. Despite the notice has been sent to the respondent, they have not engaged any advocate. Thus, the impugned order passed by the learned Magistrate is only for interim maintenance. Despite the order has been passed on 07.07.2015, the petitioner/ husband has challenged the same and the order seems to have not complied till now. It is to be noted that the impugned order has not been stayed. Whatever may be the misunderstanding with his wife, who is the 1st respondent herein, that should not affect the interest of the children of the petitioner (2nd and 3rd respondents herein). In the existing cost of living and standard of life, the award of maintenance at the rate of Rs.3,000/- to 1st respondent and Rs.2,000/- to each of the 2nd and 3rd respondents is too minimal and reasonable.

6. It is seen from the concluding part of the order of the learned Judicial Magistrate No.7, Coimbatore that the total amount awarded to the 1st respondent at Rs.2,000/- and 2nd and 3rd respondents at Rs.3,000/- is calculated at Rs.8,000/- per month. The learned counsel for the petitioner submitted that actually the Court ordered Rs.3,000/- per month as maintenance to the 1st respondent and Rs.2,000/- to each for the 2nd and 3rd respondents and that is the reason why the total sum comes to Rs.7,000/-. Though the clerical mistake is obvious in the order, this Court does not want to get into the same at this given stage of fact. It is open to the parties to file an application before the Magistrate Court for amendment. However, there is no confusion regarding the total maintenance amount payable by the petitioner to the respondents and it is Rs.7,000/- p.m., only.



7. Despite the revision petitioner claimed that the 1st respondent has got her individual source of income by running a beauty parlour, no material is shown to prove the same. The learned Magistrate has also made an observation to that effect in his order and the same was accepted by the lower appellate Court also. These matters have to be proved only at the time of conducting enquiry and cannot be very exhaustive at the stage when the interim maintenance ordered as an interim arrangement. Despite the order of interim maintenance on 07.07.2015, the respondents could not get the benefit of the order till now. Since the quantum of maintenance awarded by the Court found to be very reasonable, in the present existing cost of living, I find no reason for interference.

8. In the result, this Criminal Revision Case is dismissed and the order of the learned Judicial Magistrate No.7, Coimbatore, dated 07.07.2015 passed in C.M.P.No.8574 of 2014 in D.V.A.No.63 of 2014 is confirmed.

Sd/-

Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

rpl

To

1. The First Additional District Judge,
Coimbatore.
2. -do-Through The Principal District Judge,
Coimbatore.
- 3.The Judicial Magistrate No.7,
Coimbatore.
4. -do-Through The Chief Judicial Magistrate,
Coimbatore.

+1cc to Mr.N.Manokaran, Advocate SR.No.2598

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PL(CO)
GMY(07/03/2022)