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Crl.R.C.No.161 of 2020

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 14.12.2022**

**CORAM**

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

**Crl.R.C.No.161 of 2020**  
**and Crl.M.P.No.1188 of 2020**

Kumaravel

... Petitioner

Vs.

1.Kavitha

2.Minor Ashwitha

...Respondents

**Prayer:** Criminal Revision Petition filed under Section 397 read with 401 Criminal Procedure Code against the order in M.C.No.5 of 2010 passed by the learned Judicial Magistrate No.1, Sankagiri dated 22.07.2019.

For Petition : Mr.P.Tamilavel

For Respondents : Mr.N.M.Manokaran

**ORDER**

This Revision has been filed by the petitioner as against the order in M.C.No.5 of 2010 passed by the learned Judicial Magistrate-I, Sankagiri dated 22.07.2019.



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2.The petitioner is the husband, 1<sup>st</sup> respondent is wife and the 2<sup>nd</sup> respondent is the minor child born to the petitioner and the 1<sup>st</sup> respondent out of their wedlock. The 1<sup>st</sup> respondent/ wife filed a maintenance case in M.C.No. 5 of 2010 on the file of the learned Judicial Magistrate-I, Sankagiri. The learned Judicial Magistrate held the petition and order maintenance for a sum of Rs.4,000/- (Rupees Four Thousand only) to the 1<sup>st</sup> respondent/ petitioner and a sum of Rs.3,000/- (Rupees Three Thousand only) to the 2<sup>nd</sup> respondent/ 2<sup>nd</sup> petitioner/ minor child as a monthly maintenance. Aggrieved over the same, the respondent therein has filed the present Revision Petition before this Court.

3.The learned counsel appearing for the petitioner would submit that the petitioner was working as a driver and due to heart ailment, now he is not going to the work and also his father died and he is under dependency of the age old mother and that the petitioner himself is unable to maintain himself. Therefore, he is not in a position to pay the maintenance as ordered by the learned Judicial Magistrate. Thereby, he prayed that the order of the learned Judicial Magistrate is liable to be set aside.



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4.Despite, sufficient opportunity given, when the matter came up on 06.12.2022, at request of the both the learned counsels, the matter was posted under the caption 'for disposal'. The representative counsel appearing for the respondents seeks time and since the maintenance case pending from the year 2010 and the Revision is also pending from the year 2020, this Court is not inclined to grant any further adjournments.

5.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on the records.

6.Though the petitioner has stated that already a sum of Rs.40,00,000/- (Rupees Forty Lakhs only) was paid to the respondent in the presence of the brother and father of the 1<sup>st</sup> respondent and now he has no money left and the trial Court has found that there is no material produced to prove that the respondents were paid sum of Rs.40,00,000/- (Rupees Forty Lakhs only). However, considering the facts that the respondents are unable to maintain themselves and therefore, the Magistrate has rightly



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passed the order for a sum of Rs.4,000/- and Rs.3,000/- respectively to the respondents.

7.Considering the facts that the maintenance case is pending from the year 2010, the respondents are living separately and also the cost of living as on date and the price index rising day by day, this Court does not find any perversity in the order passed by the learned Magistrate and the order for a sum of Rs.4,000/- and Rs.3,000/- respectively to the respondents are very reasonable and there is not merit in the revision and thus, the Revision is liable to be dismissed.

8.Accordingly, this Revision Petition is dismissed. Consequently, connected miscellaneous petition is also closed.

**14.12.2022**

Index: Yes/ No  
Speaking Order : Yes/ No  
gba

To  
The Judicial Magistrate-I,

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Sankagiri.

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**P.VELMURUGAN,J.**

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