



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2022

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Criminal Revision Case No.136 of 2020
and CRL.MP.No. 949 of 2020

M.R.Vinayakamurthi

..Petitioner

Vs.

1.Gomathy @ Gayathri

2. V.Gokul Prasad

... Respondents

Prayer: Criminal Revision filed under Section 401 of Criminal Procedure Code, praying to call for the records relating to the order passed by the Family Court, Thiruvallur in M.C.No. 3 of 2016, dated 30.11.2018 and set aside the same in so far as the order for maintenance in respect of the first respondent herein in concerned.

For Petitioner : Mr.T.N.Sugesh

For Respondents : Mr.R.Rajesh – R1

No Appearance - R2

ORDER

This Criminal Revision Case has been filed to to call for the records relating to the order passed by the Family Court, Thiruvallur in M.C.No.



3 of 2016, dated 30.11.2018 and set aside the same in so far as the order for maintenance in respect of the first respondent herein in concerned.

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2. The revision petitioner is the husband and respondents are wife and son of the petitioner respectively. The respondents herein have filed a maintenance case in M.C.No. 3/2016 before the Family Court, Thiruvallur. The Family Court after enquiry, has concluded that the wife and son are entitled for monthly maintenance of sum of Rs.10,000/- each from the date of petition. Aggrieved over the said order of the Family Court, the present revision petition has been filed by the husband.

3. Heard the learned counsel for the petitioner and the learned counsel for the 1st respondent and perused the materials available on record. Though notice has been served on the 2nd respondent, none appeared.

4. The learned counsel for the petitioner has submitted that the first respondent had left the matrimonial house without an valid reason. The husband/petitioner herein had filed divorce petition in HMOP. No.50 of 2014 before the Family Court, Tiruvallur. The Judge, Family Court,



Tiruvallur gave finding that the wife has left the matrimonial home without any valid reason and even though she has stated that she always willing to join and live with the petitioner, she has never taken steps or efforts to join and live with the petitioner. At the same time the petitioner/husband has proved that the first respondent/wife was never willing to live with him and she was causing cruelty to the parents of the petitioner in his absence. Accordingly, granted divorce on the grounds of desertion and cruelty.

5. Section 125 of CrPC clearly states that '*no wife shall be entitled to receive an [allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be] from her husband, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.*'

6. In the present case, the Judge, Family Court, Tiruvallur has granted divorce on the ground of desertion and cruelty, therefore as per the Section 125 of CrPC, the 1st respondent/wife is not entitled for maintenance from the petitioner/husband. Therefore, the order passed by the Family Court in M.C.No. 3 of 2016, dated 30.11.2018 in so far as wife/1st respondent herein is concerned, is liable to be set aside.



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7. The learned counsel for the petitioner has submitted that since his son has now attained majority, he is not entitled for the maintenance amount granted by the Family Court.

8. Admittedly, at the time of filing the maintenance case, his son was a minor, therefore he is entitled for maintenance amount from that date. The petitioner has not preferred any revision as against the order passed by the Family Court, Tiruvaallur granting maintenance for his son. The petitioner being a father of a child, he should not shirk his responsibility in paying maintenance amount mere on the ground that his son attained majority. He is bound to pay the maintenance amount to his son/2nd respondent, till completion of his graduation or at least completion of age of 21 years.

9. In the result, the Criminal Revision Petition is allowed with the following directions;

- i. The petitioner is directed to pay the entire arrears amount payable to his son/2nd respondent immediately, within a period of one month from today.



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ii. In the absence of payment by the petitioner within the stipulated period, the trial Court viz., Family Court, Tiruvallur is directed to issue warrant to the petitioner to recover the entire arrears of maintenance amount payable to his son/2nd respondent herein, without any formal application.

iii. Consequently, connected Miscellaneous Petition is closed.

06.12.2022

Index : Yes/No

Internet : Yes

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Note : Issue a copy of this Order on 07.12.2022

To

The Judge,
Family Court,
Thiruvallur.



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P.VELMURUGAN,J.

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