



CRL.O.P.No.33641 / 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2022

CORAM

THE HON'BLE MS.JUSTICE R.N.MANJULA

CrI.O.P.No.33641 of 2019
and CrI.M.P. No.1084 of 2020

Viswanathan

... Petitioner

vs.

1. V.Bagyavathi
2. Minor Thereshadana
(Minor rep. by her Mother and
Natural Guardian Mrs.Bagyavathi)
Respondents

...

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order passed by the learned Sessions Judge Mahila Court (FTMC) Udagamandalam, Nilgiris in CRP No.5 of 2017 dated 05.07.2019 confirming the order passed in M.C.No.6 of 2015, dated 10.02.2017 by the learned Judicial Magistrate, Coonoor.

For Petitioner : Mr.G.Vinodh Kumar
For Respondents : Mr.B.Kumarasamy



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ORDER

This Criminal Original Petition has been filed to set aside the order passed by the learned Sessions Judge Mahila Court (FTMC) Udagamandalam, Nilgiris in CRP No.5 of 2017 dated 05.07.2019 confirming the order passed in M.C.No.6 of 2015, dated 10.02.2017 by the learned Judicial Magistrate, Coonoor.

2. The petitioner is the husband of the first respondent and the second respondent is their children. The first respondent had filed a petition in M.C. No.6 of 2015 before the learned Judicial Magistrate, Connoor, seeking maintenance from the petitioner in which the learned Magistrate has passed an order on 10.02.2017 by fixing maintenance at Rs.5,000/- for the petitioner alone. Despite the petition has been filed for seeking maintenance for the first and second respondent, it is learnt that the second respondent was taken away by the petitioner and now he is under the custody of the petitioner. Under such circumstances, maintenance has been ordered to the first respondent @ Rs.5,000/- per month. The same was challenged by the petitioner herein by way of filing



a revision petition in C.R.P. No.5 of 2017 before the learned Sessions Judge, Magalir Neethimandram, FTMC, Udagamandalam, Nilgiris and the same was dismissed. Aggrieved by that the petitioner has filed the present petition.

3. The learned counsel for the petitioner submitted that the relationship between the petitioner and the first respondent is not denied; however, the first respondent is not entitled to get any maintenance because of her illegal intimacy with a third person. In this regard the learned counsel for the petitioner had also produced a letter alleged to have been written by the first respondent by stating that she had already chosen to live with a third person.

4. The learned counsel for the respondents submitted that the said letter was not sent by the first respondent and it has been concocted by the petitioner himself. It is further submitted by the learned counsel for the respondent that the General Manager, Cordite Factory, Aruvangadu had taken up the petition for investigation and tried to verify the genuineness of the signature but the petitioner immediately withdrew the



letter.

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5. Whatever may be the contentions raised about the said letter by the parties, this is not the appropriate Court which should deal about the same and record any finding as to the conduct of the first respondent or the petitioner herein. Despite the petitioner had made a bald allegation of adultery against the first respondent and a petition for maintenance has been filed as early as on 2015, the petitioner has not filed any petition for divorce so far by raising the above allegation. The Courts below have recorded the reasons to reject the contention of the petitioner that his wife was living with some other person. In fact it has been observed that the first respondent had chosen to leave the petitioner only because of his suspicious nature.

6. Since the Courts below have dealt the matter at length and had chosen to dispel the ground of adultery and the petitioner did not take any steps to file divorce petition against the first respondent, I feel the petitioner cannot add strength to this original petition by reiterating the same reasons. The amount of maintenance at the rate of Rs.5,000/- per



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month is very much reasonable for the existing cost of living and it is compatible to the earning capability of the petitioner as well. In what ever angle the matter is looked at, I find no reason to interfere with the order of the learned Sessions Judge in C.R.P. No.5/2017.

7. In view of the above stated reasons, this Criminal Original Petition is dismissed. Connected miscellaneous petition is closed.

13.12.2022

Index : Yes/No
Internet : Yes/No
bkn

To

The Sessions Judge Mahila Court (FTMC)
Udagamandalam,
Nilgiris.



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R.N.MANJULA, J.

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