



Crl.R.C(MD)Nos.128 and 234 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.11.2022

CORAM:

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.RC(MD)Nos.128 and 234 of 2021

and

Crl.M.P(MD)No.1476 of 2021

Crl.RC(MD)No.128 of 2021:

1. S.Sujatha

2. Jeevaguru

... Petitioners

Vs

Suresh Kumar

... Respondent

Prayer: This Criminal Revision Petition filed under Section 397(1) and 401 of Cr.P.C., praying to call for the records and set aside the order dated 27.11.2020, in Cr.M.P.NO.1277 of 2020 in M.C.NO.4/2011, on the file of the Judicial Magistrate No.II, Kovilpatti, Tuticorin District.

For Petitioners : Mr.KA.Raamakrishinan

For Respondent : Mr.M.Prabhu



CrL.R.C(MD)Nos.128 and 234 of 2021

CrL.RC(MD)No.234 of 2021:

G.Sureshkumar

... Petitioner

Vs

1. S.Sujatha
2. S.Rajaguru (Died)
3. S.Jeevaguru (Minor)

... Respondents

Prayer: This Criminal Revision Petition filed under Section 397(1) and 401 of Cr.P.C., praying to call for the records and set aside the order dated 27.11.2020, in Cr.M.P.NO.2194 of 2019 in M.C.NO.4/2011, on the file of the Judicial Magistrate No.II, Kovilpatti, Tuticorin District.

For Petitioner : Mr.M.Prabhu

For Respondents : Mr.KA.Raamakrishnan

COMMON ORDER

These Criminal Revision Cases have been filed to set aside the orders, dated 27.11.2020, passed by the Judicial Magistrate No.II, Kovilpatti, Tuticorin District, in CrL.M.P.Nos.1277 of 2020 and 2194 of 2019.



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2.The facts in brief is as follows:

It is a matrimonial dispute between the husband and wife, MC No.4 of 2011 was filed by the wife before the trial Court, viz., Judicial Magistrate No.II, Kovilpatti, Tuticorin District. It was allowed by the trial Court, directing the husband to pay a sum of Rs.3,000/- each to the wife and two children.

3.It is the contention of the wife that though the maintenance was paid by her husband, he failed to pay the maintenance from 01.02.2018 to 01.02.2019. Hence, she filed a petition claiming maintenance in Crl.M.P.No. 2194 of 2019 and the same was allowed by the trial Court on 27.11.2020. Challenging the same, the husband filed revision in Crl.R.C.No.234 of 2021 before this Court.

4.Per contra, it is the contention of the husband that till December 2017, he was paying the maintenance amount without fail. In December, 2017, he retired from service and now he is receiving pension amount, which comes to Rs.16,348/-. The wife is working as Lab Assistant in ECHS, Polytechnic and drawing a sum of Rs.28,100/- per month. The son viz., Rajaguru died on 07.02.2020. On the basis of the above said change in circumstances, the husband filed Crl.M.P.No.1277 of 2020, seeking modification of the order in



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M.C.No.4/2011. The trial Court, by considering the change in circumstances, passed an order, by reducing the monthly maintenance amount as Rs.2,500/- each to the wife and second child. Challenging the above said order, the wife preferred revision in Crl.RC(MD)No.128 of 2021 before this Court.

5.It is contended on behalf of the wife to the effect that absolutely, there was no change in circumstances and the order of maintenance was passed with consent. According to her, the order passed by the trial Court requires to be interfered.

6.There is no merit in this petition, since the trial Court has passed the order, after taking into account of change of financial capacity of the husband. He also produced the pension passbook before the trial Court. Only on going through the pension passbook, order of reducing the maintenance amount is passed. Moreover on the basis of interim order passed by this Court in Crl.R.C.No.234 of 2021, Rs.54,000/- was deposited by the husband before the trial Court to the credit of M.C.No.4 of 2011. Hence, this Court finds no illegality in the order passed by the trial Court, therefore, the Crl.R.C.No.128 of 2021, deserves to be dismissed.



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7. Similarly, the husband had preferred a revision in Crl.RC(MD)No.234 of 2021, against the order passed by the trial Court in Crl.M.P.No.2194 of 2019, which was filed by the wife and children under Section 125(3)Cr.P.C, claiming arrears of maintenance amount for the period from 01.02.2018 to 01.02.2019. The total amount claimed is Rs.1,08,000/-. It was resisted by the husband stating that he retired from service in December 2017 and his son/second petitioner attained majority and died on 07.02.2020. However, the contentions of the husband was rejected by the trial Court stating that no step was taken by the husband to modify the maintenance amount. Though the second petitioner attained majority, he was entitled for maintenance till his attainment of majority and his arrears of maintenance amount will be added to the estate of the deceased/second petitioner, which will again comes to the hands of wife. The contention with regard to the inability to pay maintenance amount was also not accepted by the trial Court. As rightly pointed out by the trial Court, since the husband has not taken any steps at the relevant point of time, he has to pay the arrears of maintenance amount. Therefore, I find no merits in this petition and there is no irregularity or illegality in the order passed by the trial Court. Therefore, this revision is also liable to be dismissed.



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8. Accordingly, both the Criminal Revision Cases are dismissed.

Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

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G.ILANGOVA, J.

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COMMON ORDER IN

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AND Crl.M.P(MD)No.1476 of 2021

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