



Crl.O.P.(MD)No.5574 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **03.11.2022**

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THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

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Jeyachandran

... Petitioner

/Vs./

1.J.Jeyarani

2.J.Satheesh

3.Minor Santhosh,

Represented by his mother, the first respondent herein.

... Respondents

PRAYER:- Petition - filed under Section 482 of Criminal Procedure Code, to set aside the order passed in Crl.R.P.No.1 of 2017 on the file of the Additional District and Sessions Judge, Virudhunagar confirming the order passed in M.C.No.23 of 2014 on the file of the Judicial Magistrate, Aruppukottai.

For Petitioner : Mr.S.Poornachandran

For Respondents : Mr.P.Banuprasath

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below in Crl.R.P.No.1 of 2017, whereby the Court below upheld the order passed by the learned Judicial Magistrate, Aruppukottai,



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directing the petitioner to pay a sum of Rs.3,000/- as maintenance to each of the respondents, who are the wife and sons of the petitioner.

2. The first respondent filed a Maintenance Case for herself and on behalf of the sons, claiming for monthly maintenance of Rs.10,000/- for each of the respondents. According to the first respondent, her marriage was solemnized with the petitioner on 16.07.1997 and out of the said wedlock, two children were born. The first respondent alleged that she was treated with cruelty and there was demand for dowry and ultimately, the petitioner refused to live with the respondents. The further case of the first respondent was that the petitioner was working as a Mechanic and he was earning about Rs.33,000/- per month. That apart, the petitioner was also owning properties and earning rental income. Accordingly, the first respondent sought for maintenance both herself as well as the second and third respondents, who are the children.

3. The petitioner took a stand that he had not committed any cruelty and that he was earning only a sum of Rs.6,000/- per month and he had to take care of his parents and also attend to their medical expenses. The further stand taken by the petitioner is that the first respondent is earning nearly Rs.10,000/- per month from Beauty Parlour and Rs.15,000/- per month by stitching dresses.



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4. The trial Court, after taking into consideration the facts and circumstances of the case and the evidence available on record, came to a conclusion that the respondents are entitled for maintenance and thereby, directed the petitioner to pay a sum of Rs.3,000/- as monthly maintenance to each of the respondents. Aggrieved by the same, the petitioner filed a Criminal Revision Petition before the Court below and the Court below confirmed the order passed by the trial Court. Aggrieved by the same, this Criminal Original Petition has been filed before this Court.

5. Heard Mr.S.Poornachandran, learned counsel appearing for the petitioner and Mr.P.Banuprasath, learned counsel appearing for the respondents.

6. When the matter came up for hearing on 02.11.2022, the learned counsel appearing for the respondents filed a calculation memo and stated that total arrears of maintenance that is payable by the petitioner works out to a sum of Rs.6,63,000/- and out of the same, only a sum of Rs.4,03,500/- was paid and there is a balance of Rs.2,59,500/-, which is due and payable by the petitioner. Taking into consideration the calculation memo, this Court directed the learned counsel appearing for the petitioner to take instructions and report before this Court.



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7. When the matter was taken up for hearing today, the learned counsel appearing for the petitioner submitted that there is no arrears of maintenance payable and that insofar as the maintenance for the second and third respondents is concerned, the petitioner is not liable to pay, since they have already become major.

8. This Court does not want to go into the issue of arrears of maintenance and this Court deems it fit to straightaway go into the merits of the case.

9. The trial Court, on appreciation of evidence, came to the conclusion that there was sufficient reason for the respondents to live separately from the petitioner. After rendering such finding, the trial Court went into the income earned by the petitioner and found that the petitioner, apart from his oral statement that he was earning only Rs.6,000/- per month, did not take any steps to examine any witness from the establishment, in which he is working and considering the experience of the petitioner, who was working as Mechanic for nearly 12 years, the trial Court came to a conclusion that the petitioner must be earning not less than Rs.12,000/- per month. Thereafter, the trial Court proceeded to hold that the petitioner has to maintain his wife and children and



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accordingly, fixed the monthly maintenance payable at a sum of Rs.3,000/- per month for the wife and for two children.

10. The Revision Court, once again considered the matter on merits and also took note of the order passed by the trial Court and came to a conclusion that the order passed by the trial Court does not want any interference.

11. In the considered view of this Court, the petition filed under Section 482 of Cr.P.C., can be entertained as against the order passed in the Revision, only if there are glaring infirmities and the order suffers from illegality. There is a bar to maintain a second revision and hence, the petition under Section 482 of Cr.P.C., cannot be a substitute for such a bar that has been provided under the Criminal Procedure Code.

12. On carefully going through the order passed by the trial Court as confirmed by the Revision Court, this Court does not find any ground to interfere with the same, since there is no illegality or infirmity in the order passed.

13. The only other ground to be considered by this Court is regarding the



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liability of the petitioner to pay maintenance to the second and third respondents, after having reached majority. It is seen that the second respondent became a major on 01.01.2017 and the third respondent became a major on 08.08.2021. Hence, the maintenance payable by the petitioner confines itself only till the second and third respondents reached majority. Thereafter, the liability on the part of the petitioner to pay maintenance will extend only to the first respondent, who is the wife of the petitioner. Hence, the petitioner has to continue to pay the maintenance fixed by the Court below to the first respondent. If there is any arrears of maintenance payable by the petitioner, it is left open to the first respondent to recover the arrears of maintenance in accordance with the provisions of Cr.P.C.

14. In the result, this Criminal Original Petition stands disposed of.

03.11.2022

Internet :Yes/No
Index :Yes/No
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To:

- 1.The Additional District and Sessions Judge, Virudhunagar.
- 2.The Judicial Magistrate, Aruppukottai.



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N.ANAND VENKATESH, J.

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Order made in
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Dated:
03.11.2022