



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30/11/2022

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.RC(MD)No.613 of 2021

and

Cr1.MP(MD)No.6731 of 2021

Anbarasu Pandian : Petitioner/Respondent

Vs.

1.Sharmila

2.Minor Kiriya : Respondents/Petitioners

(R2 represented through
her mother the 1st respondent)

PRAYER:-This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code, to call for the entire records pertaining to the order passed by the Judicial Magistrate No.2, Usilampatti, Madurai District, in MC No.7 of 2019, dated 04/09/2020 and set aside the same and pass such any or other orders.

For Petitioner : Mr.M.Pitchaimuthu

For Respondents : Mr.V.Santhakumaresan

**ORDER**

WEB COPY

This Criminal Revision has been filed seeking in order to set aside the order passed by the Judicial Magistrate No.2, Usilampatti, Madurai District, in MC No. 7 of 2019, dated 04/09/2020.

2.The facts in brief:-

It is a matrimonial issue between the husband and wife. The marriage between the petitioner and the first respondent herein took place, on 01/02/2017 as per the customary rites. Right from the marriage, suspecting her conduct, she was tortured and physically assaulted. For about six months, they were living together and on 03/08/2017, she was taken to her parental home for delivery. Even before the birth of the child, they demanded Rs.5,00,000/- as additional amount and apart from jewelry, etc. A female child was born, on 12/10/2017. Even the child was not visted by the husband. In spite of compromise talk undertaken, the husband refused to take back the wife and the child. He is working as Conductor in the Tamil Nadu State Transport Corporation and earning Rs.40,000/- per month as salary.



Apart from that, he is also doing money lending business, agricultural operations, etc. Seeking Rs.10,000/- each to the children and herself, she filed a maintenance petition before the trial court.

3.That was resisted by the petitioner/husband stating that there was no ill-treatment or torture and the wife was taken to the parental home, on 03/08/2017 for bangle wearing ceremony. After that, she refused to come with him. She was admitted in the Government hospital for delivery only by him. When he tried to visit the child, he was insulted. A false complaint was also given against him before the Samayanallur Police Station. He has to maintain his old aged parents out of the meagre salary. Only the wife is purposely refused to live with the husband.

4.At the conclusion of the enquiry, the trial court found that because of the matrimonial dispute, a complaint has been given by the wife. So the relationship has now become strained and there is no possibility of reunion and accordingly, Rs.10,000/- was ordered to be paid to the wife and Rs.5,000/- to the children.



5.Challenging the above said, the criminal revision has been preferred by the husband.

6.Heard both sides.

7.During the course of argument, the learned counsel appearing for the petitioner would submit that the salary of the petitioner was not established before the trial court and he is only working as a temporary employee and he is ready to pay Rs.5,000/- as monthly maintenance to the child and the wife.

8.In view of the above said argument, let us go to the evidence on record.

9.The learned counsel appearing for the petitioner relied upon the additional typed set of papers, which enclosed the 'B' diary extract of the trial court. According to him, the first respondent filed CrI.MP No. 1940 of 2020 for execution of the maintenance order. Salary was attached. But later, the Garnishee produced the document to show that the petitioner was only a temporary employee and also stated that Rs.10,404/- was



his monthly salary. Later, the above said attachment was withdrawn and the petitioner was paying the monthly maintenance as Rs.4,000/-, Rs.3,000/, and Rs.2,000/- etc., It was posted for further payment, on 08/07/2022. What happened thereafter is not clear on record.

10.It appears that the pending the above said proceedings, this criminal revision has been preferred challenging the quantum. But whether still the petitioner is the temporarily employee or whether he joined in any other job is not explained by the petitioner.

11.Now whatever it may be, in the present economic situation, the payment of Rs.10,000/- to the wife and Rs. 5,000/- to the child cannot be excessive or luxurious in nature. So, I find no merit in this revision.

12.In the result, this criminal revision is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

30/11/2022

Index:Yes/No
Internet:Yes/No
er



6

WEB COPY

To,
The Judicial Magistrate No.2,
Usilampatti,
Madurai District.

G.ILANGOVAN, J



WEB COPY



7

er

Cr1.RC(MD)No.613 of 2021

30/11/2022