



Crl.R.C.(MD).No.1061 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2022

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.1061 of 2022

Athilakshmi

... Petitioner

Vs.

A.Balakrishnan

... Respondent

PRAYER: This Criminal Revision Case is filed under Sections 397 and 401 of the Criminal Procedure Code, to call for the entire relevant records in impugned order passed by the learned Judicial Magistrate Court, Manamadurai, in M.P.No.12 of 2022, dated 18.08.2022, in M.C.No.2 of 2003, and consequently, set aside the same and to direct enhance the maintenance amount for Rs.20,000/- per month to the petitioner in M.P.No. 12 of 2022 in M.C.No.2 of 2003, within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Senthilkumar

For Respondent : Mr.K.Chengizkhan

ORDER

This Criminal Revision Case has been filed against the order passed in impugned order passed by the learned Judicial Magistrate, Manamadurai, in M.P.No.12 of 2022, dated 18.08.2022, in M.C.No.2 of 2003.



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2.The facts in brief:

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M.C.No.2 of 2003, was filed by the wife and child against the husband before the learned District Munsif cum Judicial Magistrate, Manamadurai, claiming maintenance amount. By the order, dated 22.02.2007, Rs.1,000/- was ordered as maintenance to the wife and the child. Later, the wife filed M.P.No.12 of 2022 before the learned Judicial Magistrate, Manamadurai, under Section 127 (1) of Cr.P.C., seeking enhancement of monthly maintenance amount. That was also allowed enhancing the maintenance amount as Rs.5,000/- per month. That order is dated 18.02.2022. Against the above said enhancement, this revision petition has been preferred by the wife stating that the maintenance amount that was enhanced is not sufficient and so it must be enhanced to Rs.20,000/-, on the ground that the respondent is getting the salary amount of Rs.54,000/- and for several years, he was paying only Rs.1,000/- as monthly maintenance.

3.Only a short point arises for consideration. The trial Court by taking into account the pay slip of the respondent, found that the respondent is receiving Gross salary of Rs.54,002/- and fixed the above said amount. Some other ground was also raised by the respondent that he is incurring



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expending for payment of housing loan and personal loan etc., But those things cannot be taken into account. Only gross salary can be taken into account. Considering the gross salary, I am of the considered view that enhancement of monthly maintenance of Rs.5,000/- is not even coming 1/5th of the gross salary of the respondent. In normal circumstances, 1/3rd of the salary of the husband must be paid as monthly maintenance. Considering the above said fact, I am of the view that the amount can be enhanced to Rs. 10,000/- from the date of filing of the petition before the trial Court.

4. Accordingly, this criminal revision case is **allowed** and the impugned order passed by the learned Judicial Magistrate Court, Manamadurai, in M.P.No.12 of 2022, dated 18.08.2022, in M.C.No.2 of 2003 is hereby set aside. The respondent shall pay the monthly maintenance amount of Rs.10,000/- to the petitioners from the date of filing of the above said petition.

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Index : Yes / No
Internet : Yes / No
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To



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1.The Judicial Magistrate, Manamadurai.

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G.ILANGO VAN,J.

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