



Crl.O.P.No.19296 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.19296 of 2023

and

Crl.M.P.No.12966 of 2023

Jagadheesan,
S/o.Kannan

.. Petitioner

Vs.

1.Bharathi,
W/o.Jagadheesan

2.Dhivya,
D/o.Jagadheesan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the order dated 25.07.2023 passed in Crl.Rev.Petition No.17 of 2021 by the III Additional Sessions, Vellore @ Tirupattur confirming the order dated 01.11.2021 passed in CMP No.3987 of 2013 in M.C.No.20 of 1999 by the Judicial Magistrate-III, Tirupattur, Vellore District.

For Petitioner : Mr.C.D.Sugumar

ORDER



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This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the criminal revision petition No.17 of 2021, dated 25.07.2023 and thereby confirming the order passed by the Judicial Magistrate III, Tirupattur, Vellore District in CMP No.3987 of 2013 in M.C.No.20 of 1999, dated 01.11.2021.

2. The respondents had filed an application u/s.127 Cr.P.C. seeking for enhancement of maintenance amount. The trial Court, after considering the materials available on record and on appreciation of evidence, fixed the enhanced maintenance at Rs.5,000/- p.m. payable to the first petitioner and Rs.7,000/- p.m. payable to the second petitioner. Aggrieved by the same, the criminal revision case was filed before the Court below and the Court below confirmed the said order. Aggrieved by the same, the present petition has been filed.

3. Heard Mr.C.D.Sugumar, learned counsel for petitioner and carefully perused the materials available on record.

4. It is clear from the orders passed by both the Courts below that the



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petitioner is earning Rs.1,00,000/- as monthly salary. The main grievance of the petitioner is that the second respondent/daughter is now aged 27 years and she has completed Engineering and she is employed and is earning Rs.50,000/- p.m. Therefore, according to the petitioner, there is no reason as to why the petitioner has to pay maintenance to the second respondent when she is capable of taking care of herself and she is possessed of sufficient means to maintain herself.

5. The Courts below have gone into this issue and found that there is absolutely no proof to show that the second respondent is working and earning a sum of Rs.50,000/- every month. Under such circumstances, the Court below fixed the maintenance amount payable to the second respondent at the rate of Rs.7,000/- p.m.

6. In the considered view of this Court, the maintenance that has been fixed by the Courts below is not exorbitant and the same has been done in a proper manner after considering the monthly salary of the petitioner. It is the petitioner, who had taken a stand that his daughter is working elsewhere

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and she is earning. Therefore, the onus of proof is upon the petitioner and if the petitioner fails to prove the same, the petitioner is bound to pay maintenance to his daughter till she is married.

7. The orders passed by both the Courts below do not suffer from any illegality or infirmity and it does not require the interference of this Court.

Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petition is closed.

25.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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To
1. The III Additional Sessions,
Vellore @ Tirupattur.

2. The Judicial Magistrate-III,
Tirupattur , Vellore District.

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