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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03/03/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.RC(MD)Nos.253 of 2021 & 170 of 2022

(1)Crl.RC(MD)No.253 of 2021:-

Muneshwaran : Petitioner/Respondent

Vs.

1.Sasikala

2.Minor Manodharshani

(Represented through her mother

the 1st respondent : Respondents/Petitioners

Prayer:- This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code, to call for the records connected with the impugned order in MC No.38 of 2019 on the file of the Family Court, Sivagangai, dated 05/11/2019 and set aside the same.

For Petitioner : Mr.R.Rajasenvan

For Respondents : Mr.S.Pugalendhi

**(2) Cr1.RC(MD)No.170 of 2022:-**

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1.Sasikala
2.Minor Manodharshani
(Represented through her mother
the 1st respondent : Petitioners/Petitioners

Vs.

Muneshwaran : Respondent/Respondent

Prayer:- This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code, to call for the records connected with the impugned order in MC No.38 of 2019 on the file of the Family Court, Sivagangai, dated 05/11/2019 and set aside the same and consequently, enhance the maintenance amount of Rs.25,000/- per month to each of the petitioners.

For Petitioners : Mr.S.Pugalendhi

For Respondent : Mr.R.Rajasenvan

COMMON ORDER

Cr1.RC(MD)No.253 of 2021 has been filed by the husband seeking to set aside the order of the trial court, whereas Cr1.RC(MD)No.170 of 2022 is filed by the wife seeking enhancement of the maintenance amount passed by the trial court.

**2. The facts in brief:-**

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The marriage between the parties took place, on 16/03/2008 as per their customary rites. After the marriage, a female child was born, on 17/12/2009. The wife filed M.C No.38 of 2019 before the Family Court, Sivagangai stating that right from the marriage, the husband was not properly taking care of the family and used to pick up quarrel. The husband filed HMOP No.104 of 2013, which was later transferred to to Family Court, Sivagangai, seeking divorce. Similarly, the wife also filed a complaint in DVOP No.6 of 2014 before the Judicial Magistrate No.2, Sivagangai and interim maintenance was ordered. Against which, the husband filed C.R.R.P No.10 of 2014 before the Principal District Munsif Court, Sivagangai. There was a compromise between them. During the course of the above said proceedings, the wife as well as the husband withdrew all the cases. From 07/04/2017, they started living together. But even after reunion, the husband did not change his attitude. He did not even take care to admit the child in the school. Now she is depending upon her parents for her maintenance. Even though, he is living in the very same



house, the husband is not taking care and even refused to take to her. He is working as a staff in the High Court, Madurai Bench and earning Rs.40,000/- per month. Apart from that, he is also having houses, lands, etc.

3. Seeking Rs.10,000/- for herself and Rs.15,000/- for her child, she filed a petition.

4. Even though, the husband was served with notice, he failed to appear and did not file any counter also. So he was set ex-parte. On the side of the wife, she herself examined as PW1 and four documents were marked. On the side of the husband, no oral and documentary evidence was adduced.

5. At the conclusion of the enquiry, the trial court ordered Rs.5,000/- each, as maintenance to the wife and the child.

6. Over which, Cr1.RC(MD)No.253 of 2021 has been preferred by the husband. Similarly, the wife also filed Cr1.RC(MD)No.170 of 2022 seeking enhancement of maintenance amount. Both were heard together and common order is passed.



7. Finding that the husband is working in the High Court, the matter was referred to the Mediation and Conciliation Centre, attached to this Bench for the purpose of making out settlement. In spite of repeated adjournments, the matter could not be settled and the reason for non-settlement is also not known at all.

8. As usual, they are blaming against each other. The wife is saying that the husband is not cooperate with the mediation process. Now it is the turn of the husband stating that the wife is not cooperating. Now whatever it may be, the effort that has been made by this court failed.

9. Reading of the order passed by the Family Court, Sivagangai, it is seen that even though various proceedings in the form of divorce and domestic violation have been initiated in 2013-2014 itself, there was a compromise between the parties and started living together. Both are living in the very same roof with child, but they could not patch up their differences. The reason for the above said issue could not be ascertained, since the husband has not participated in the maintenance proceedings.



10. In the grounds of revision, the husband has stated that the wife is earning income by Tailoring. Suppressing the above said income, she has filed the petition. Summon was not properly served upon him. There was no big issue between them. The wife also lead a luxurious life. According to the husband, there is no reason for the mutual separation and he has to maintain his old aged parents. Except this vague ground, no other ground worth considering is taken.

11. As mentioned above, the real dispute between the husband and wife is not known. But however, it is admitted that both are living in the very same roof. But the husband did not take care to herself and the child. So he has to pay the maintenance.

12. Even though, the wife challenged the order stating that it is not sufficient enough to maintain herself and the child, since the husband is earning Rs.60,000/- per month, considering the fact that the maintenance case was filed in 2019 and the order was to the effect from the date of the petition, I am of the considered view that the same need not be raised or



enhanced. However, for future enhancement, she can file an application before the competent court for the very same relief. So I find no reason to entertain both the revisions.

13.The learned counsel appearing for the husband would submit that since the ex-parte order has been passed, the matter can be remanded back to the trial court for giving opportunity to the husband to decide the matter on merits. But however, I find absolutely no reason to entertain this sort of request, since he is working in the Court and he ought to have known the filing of the above said petition. There is a clear indication to the effect that he was served with notice.

14.When no document or evidence has been produced by the husband stating that actually, no notice was served upon him, whether proper notice served upon him or not, cannot be a matter for consideration by this court in the revisional stage. He ought to have settled the issue before the Mediation Centre itself amicably, but failed to make out a settlement. Even before the mediation process, the husband has stated that he is



ready to pay the maintenance amount, but he is ready to settle the amount as one time settlement. But why he is opting for one time settlement was not explained by him before this court. I find no merit in both revisions.

15.In the result, both the criminal revisions are dismissed.

03/03/2023

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To,

The Family Court,
Sivagangai.



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G . ILANGO VAN , J

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