



Crl.O.P(MD)No.3318 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2023

CORAM:

THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD)No.3318 of 2021

and

Crl.M.P(MD)No.1830 of 2021

Subramani

.. Petitioner/Petitioner/Respondent

Vs.

1.Rajeshwari

2.Minor.Shalini

..Respondents/Respondents/
Petitioners

[Represented through her mother
and natural guardian, 1st respondent]

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order of dismissing the revision petition for default vide Criminal Revision Petition No.3 of 2020 dated 05.10.2020 passed by the learned Additional District and Sessions Judge, Dindigul, Dindigul District as against the order of directing the petitioner



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to pay a sum of Rs.2,500/- each as maintenance to the respondents herein totalling a sum of Rs.5,000/- per month as made in M.C.No.11 of 2007 dated 22.11.2019 on the file of the learned Additional District Munsif cum Judicial Magistrate, Vedachandur, Dindigul District forthwith.

For Petitioner : Mr.S.Palanivelayutham

For Respondents : Mr.S.Pugalendhi

ORDER

The petitioner/husband filed this petition challenging the order dated 05.10.2020 made in Criminal Revision Petition No.3 of 2020 passed by the learned Additional District and Sessions Judge, Dindigul, Dindigul District.

2. The facts of the case runs as follows:

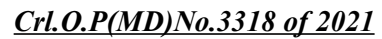
The marriage between the first respondent and the petitioner was solemnized on 29.01.2001. Out of the wedlock, they are blessed with a female child/2nd respondent herein. Due to some misunderstanding, they were started living separately. Thereafter, the petitioner has not maintained the respondents. Hence, the 1st respondent/wife has filed the



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maintenance case under Section 125 Cr.P.C in M.C.No.11 of 2007 on the file of the learned District Munsif-cum-Judicial Magistrate, Vedasanthur, Dindigul District, claiming maintenance amount of Rs.2,000/- per month. The same was contended by the petitioner by filing counter that the first respondent has her own source of income and hence, the claim of maintenance is not maintainable. But, by order dated 22.11.2019 in M.C.No.11 of 2007, the learned Judicial Magistrate, after considering the documents in Ex.B1 to Ex.B4, Ex.R1 to Ex.R3 and witnesses vide P.W-1 & P.W-2 and R.W-1 & R.W-2, was pleased to grant maintenance of Rs. 2,000/-per month for both of them from 12.03.2007 till 22.11.2019 and thereafter, Rs.2,500/- per month to each petitioners, totally a sum of Rs. 5,000/- per month. The said order was challenged before the learned Additional District and Sessions Judge, Dindigul, by filing revision petition in No.3 of 2020, which was dismissed for default on 05.10.2020. The said order was impugned in the present Criminal Original Petition.

2.1. Taking into consideration of the pendency of the MC petition from 2007 without allowing the revision and directing the revisional



3. The petitioner/husband submitted that the first respondent is earning as an Assistant in the Noon Meal Organisation and has been earning Rs.5,369/- per month and hence, she has sufficient income to maintain herself. In the said circumstances, the maintenance granted by the learned Judicial Magistrate is not correct. The learned counsel further submitted that grant of Rs.2,500/- to each respondents is excessive by considering the fact that the first respondent has been earning Rs.5,369/- as monthly income.



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4. Per contra, the learned counsel appearing for the 1st respondent/wife would submit that the trial Court has granted only minimum amount of Rs.2,500/-each per month, to his wife and his children, which was a minimum amount as on date. Further, the education expenditure of the minor children and the cost of living as on date have also been taken into consideration by the learned trial judge in paragraph No.10 of the order, wherein it is specifically held that considering the continuous raise of price of all commodities, the learned Judicial Magistrate has granted the award of a sum of Rs.2,500/- to each of them. Hence, there is no reason to interfere with the order of the learned Judicial Magistrate passed in M.C.No.11 of 2007 where the relationship between the petitioner and the respondents is admitted.

5. This Court has considered the rival submissions made by both the counsels and this Court finds that there is no illegality or infirmity to interfere with the maintenance amount granted by the trial Court in M.C.No.11 of 2021 since, as on date, a sum of Rs.2,500/- to each of them is neither excessive nor on higher side. In this case, as per the averment



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made by the respondent/husband in the maintenance petition, the husband has number of properties and also has sufficient income for paying maintenance and witnesses also produced to show his capacity to make payment. With regard to the contention of the learned counsel for the petitioner herein/husband that the first respondent/wife has been earning Rs.5,000/-, this Court feels that considering the present cost of living, the minimum expenditure to run the family life, more than a sum of Rs.10,000/- to be required, particularly, in this case, the first respondent has to maintain herself apart from providing education to the female children.

6. In the said circumstances, this Court finds that the award amount of Rs.5,000/- to both respondents is fair, reasonable and just one. Hence, there is no reason to interfere the order of the learned Judicial Magistrate in awarding Rs.5000/- to both respondents as monthly maintenance and accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed. The petitioner/husband is directed to deposit the entire arrears of the award amount within a period



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of two months from the date of receipt of a copy of this order.

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NCC : Yes/No
Internet: Yes/No
Index : Yes/No
PJL

To

1. The Additional District and Sessions Judge,
Dindigul,
Dindigul District.

2.The Additional District Munsif cum Judicial Magistrate,
Vedachandur,
Dindigul District.



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K.K.RAMAKRISHNAN,J.

PJL

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