



Crl.R.C(MD) No.153 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.08.2023

Pronounced on : 20.09.2023

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

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Subramanian

... Petitioner

-Vs-

1. Yogabamadevi

2. Minor. Nithish Kumar

3. Minor. Donish

(Respondents 2 and 3 are minor hence the
first respondent is the natural guardian)

... Respondents

PRAYER:- Criminal Revision Petition is filed under section 397 and 401 of Cr.P.C to admit this revision on file to call for the records pertaining to the order passed in M.C.No.9 of 2017 on the file of the learned District Munsif cum Judicial Magistrate No.I, Usilampatti and set and same.

For Petitioner : Mr.K.K.Samy

For Respondent : Mr.S.Balaji

ORDER

This Criminal Revision has been filed as against the order passed by the learned District Munsif cum Judicial Magistrate



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No.I, Musiri in M.C. No.9 of 2017 dated 28.01.2019 and set aside the same.

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2. The trial Court had directed the petitioner herein to pay the a sum of Rs.4000/- per month as maintenance to the first respondent herein who is the wife of the petitioner and Rs.3000/- each to the second and third respondents who are childrens of the petitioner and the first respondent.

3. The brief facts of the case are as follows: The respondents herein have filed a petition under Section 125 of Cr.P.C seeking maintenance from the petitioner. The petitioner and the first respondent are husband and wife. The second and third respondenrs are children of the petitioner and the first respondent. The first respondent herein filed petition under Section 125 of Cr.P.C in M.C.No.9 of 2017 on the file of the learned District Munsif cum Judicial Magistrate No.I, Uthamapalayam and the same was allowed in part to pay a sum of Rs.4000/- to the first respondent and Rs. 3000/- each to the second and third respondent. The petitioner is working as a Senior Driver in Usilampatti Branch of Tamil Nadu State Transport Corporation(Madurai)Ltd., and earning monthly salary. The petitioner herein is drawing a monthly salary of Rs.28,449/- in the



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month of December 2018. After deduction his take home salary is only Rs.11,668/-. The grounds raised by the revision petitioner are that the trial Court has wrongly assessed the statement of P.W.2, who is the mother of the petitioner and the trial Court failed to consider that the revision petitioner is maintaining his age old mother. Further the trial Court failed to consider that the first respondent is earning money and she can maintain herself and the amount awarded as maintenance is too high compared to the salary of the petitioner, therefore the order of the trial Court is liable to be set aside.

4. The learned counsel appearing for the petitioner would submit that the petitioner married the first respondent and thereby they begotten with children namely the second and third respondents and the second respondent without any valid reason neglected the petitioner and not even allowed to touch his children. The first respondent along with his brother received the ATM Card of the petitioner and they are only using the ATM card. The first respondent demanded the petitioner to arrange money of Rs.5lakhs to her brother but the same was refused by the petitioner, thereby she left from the matrimonial home. Thereafter the petitioner filed petition in HMOP No.23 of 2015 and the same is pending. The take home salary



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of the petitioner is only Rs.11,000/- and that is a meagre amount.

Whileso the trial Court without considering the above said aspect awarded a sum of Rs.4000/- to the first respondent and Rs.3000/- each to the second and third respondents per month. Therefore the order of the trial Court is liable to be set aside.

5. The learned counsel appearing for the respondents would contend that the petitioner is earning more than Rs.30,000/- per month and he only neglected the respondents. The petitioner very often beat the first respondent in a drunken mood and caused cruelty. Further he demanded dowry and Rs.2,00,000/- for purchase of house and he had illicit relationship with another women and the petitioner neglected the first respondent and thereby she gave complaint before the Usilampatti All Women Police Station and First Information Report has been registered in Crime No. 75 of 2015 and it is pending. Whileso without hearing the advice of the elders the petitioner filed HMOP No.23 of 2015 seeking divorce on the file of the III Additional Sub Court, Madurai with false allegations. Apart from the said salary the petitioner is earning Rs.20,000/- per month through the income from the land and thereby the petitioner is capable to pay the maintenance amount. The trial Court also elaborately enquired the matter and analyzed the documents and awarded a sum of Rs. 4000/-



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for the first respondent and Rs.3000/- each to the second and third respondent. Therefore there is no infirmity in the order passed by the trial Court and hence the petition is liable to be dismissed.

6. Heard both sides and perused the materials available on record.

7. On perusal of the records it is observed that the respondents herein filed petition under Section 125 of Cr.P.C seeking maintenance as against the petitioner herein in M.C. No. 9 of 2017 on the file of the learned District Munsif cum Judicial Magistrate No.I, Usilampatti. In this case there is no dispute with regard to the relationship between the parties and the contention of the respondent is that without there being any valid reason the petitioner neglected and failed to pay maintenance to the respondents and thereby she filed petition before the trial Court and the trial court after examining witnesses and documents adduced on both sides awarded reasonable amount of Rs.4000/- to the first respondent and Rs.3000/- each to the second and third respondents. The contention of the petitioner is that his take home salary is Rs.11,000/- and the amount awarded is too high and the first respondent is having means to maintain herself and thereby the amount passed by the trial Court is liable to be set aside.



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8. In this case in order to prove the case of the respondents herein she herself was examined as P.W.1 and P.W.2 and P.W.3 were also examined and marked exhibits Ex.P.1 to Ex.P.4. On the side of the petitioner he himself was examined as R.W.1 and marked two documents as Ex.R.1 and Ex.R.2 before the trial Court. Apart from those documents salary certificate of the petitioner was marked as Ex.X.1. On perusal of Ex.X1 it reveals that the petitioner is earning a monthly salary of Rs.30,176/- and his take home salary after deduction of statutory deduction is Rs.18,508/-. The petitioner also did not dispute the salary and he has stated that he has to maintain his father and mother. But his mother who was examined as P.W.2 and she deposed before the trial Court that the petitioner is not maintaining her and only her elder son is maintaining her. In this context the trial Court has also categorically analyzed the salary of the petitioner and after deducting statutory deduction fairly came to conclusion that the salary of the petitioner after deduction is Rs. 28,000/-

9. On careful perusal of the evidences adducted on both sides they revealed that the respondents are living separately and the petitioners neglected to maintain them, thereby the petitioner has to



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maintain the respondents. Taking into consideration the cost of living the maintenance awarded to the respondent are reasonable.

10. Considering the above said salary the trial Court has awarded a sum of Rs.4000/- to the first respondent and Rs.3000/- each to the second and third respondents. The above said amount awarded by the trial Court is nominal. Considering the cost of living and other aspects it is reasonable and thereby there is no infirmity found in the order passed by the trial Court and thereby this Court needs no warrant to interference with the order of the trial Court.

11. As discussed above this Court is of the opinion that the Criminal Revision Petition has no merits and it deserves to be dismissed.

12. Accordingly this Criminal Revision Petition stands dismissed.

20.09.2023

Index : Yes/No
Internet : Yes/No
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To
The District Munsif cum Judicial Magistrate No.I, Usilampatti



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P.DHANABAL, J.

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