



*CrI.R.C(MD).No.300 of 2019*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 02.11.2023

CORAM

**THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

CrI.R.C(MD).No.300 of 2019  
and  
CrI.M.P(MD).No.4474 of 2019

Mohammed Mansur

... Petitioner/Respondent

Vs.

1. Mumtaj Begum

2. Mohammed Hasik

... Respondents/Petitioners

**Prayer :** This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to pass an order to revise the order of the learned Judicial Magistrate, Pattukottai, dated 18.07.2018 made in M.C.No.17 of 2016 of awarding maintenance to the tune of a sum of Rs.3,000/- to the 1<sup>st</sup> Respondent from the date of filing of the application and subsequent maintenance is to be paid on or before 5<sup>th</sup> day of every calendar month and to pay a sum of Rs.3000/- to the 2<sup>nd</sup> respondent from the date of application till he attains 18 years of age by the Petitioner forthwith.



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For Petitioner : Mr.R.Karthic Rajan

For Respondents : Mr.M.Ramu

### **ORDER**

This petition has been filed to set aside the order passed by the learned Judicial Magistrate, Pattukottai, in M.C.No.17 of 2016, dated 18.07.2018.

2. The petitioner filed this revision challenging the maintenance order granted by the learned Judicial Magistrate, Pattukottai. The first respondent entered into marriage with the petitioner on 15.10.1998. Out of wedlock, the second respondent was born. Subsequently, there was some dispute between the petitioner and the first respondent. Hence, the first respondent left the matrimonial home along with the second respondent. Thereafter, she filed maintenance petition. In that petition, it is averred that the petitioner is running business in Malaysia and earning more than Rs.5 lakhs per month and he has 8 houses in Avanam village. Further, he has 1 ½ acres of coconut grove and a shopping complex in Pudukottai District. Hence, he has sufficient means to pay maintenance to the respondents and hence, she sought maintenance of Rs.25,000/- for her and Rs.15,000/- for her child.



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3. The petitioner denied the allegation made in the petition and stated that on 30.03.2014, pronounced Thalaq and Rs.6 lakhs was given to the second respondent. He stated that he was working in Malaysia and earning only Rs. 9,000/-. Hence, he had no means to pay maintenance to the respondents.

4. To prove the maintenance claim, the respondent examined herself as P.W.1 and marked the documents Ex.P.1 to Ex.P.3. The petitioner examined himself as R.W.1 and marked Ex.R.1.

5. The learned trial Judge on available evidence and considering the income source of the first respondent and needs of the respondents and social economic status of the parties and present day cost of living allowed the maintenance petition and granted maintenance of Rs.3,000/- to each respondent. Challenging the same, the petitioner/husband filed this revision.

6. According to the learned counsel for the respondents, the said amount is reasonable and there is no reason to interfere in the order passed by the learned trial Judge.



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7. This Court considered the rival submissions made on either side and perused the materials available on record.

8. The petitioner admitted the relationship and there is no dispute relating to the marriage with the first respondent and the birth of the second respondent. Further, there is no dispute relating to the entitlement of the maintenance from the petitioner by the respondents. Even though the first respondent pleaded that the petitioner is conducting business in Malasiya and earning more than a sum of Rs.5,00,000/- per month, no document was produced. Further she also pleaded that the petitioner has eight houses in the Avanam Village, one house is in Pudukkottai, 1 ½ acres of Coconut garden, Shopping complex in Pudukkottai, for which, no evidence was adduced. The petitioner denied the above source of income by examining himself as R.W.1 and marked Ex.R1 to show that there was a Customary Talak pronounced on 30.03.2014 and there was an agreement to receive the permanent alimony of Rs.6,00,000/-. Out of the said amount, Rs.1,00,000/- was paid and the remaining amount was not paid. In the said Ex.R. 1, it is stated that he was ready to live with her and she was not willing to live with him. He undertook to pay a sum of Rs.3,000/- per month. He also handed



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over the cheque for the balance amount of Rs.5,00,000/-. Considering the said circumstances, the learned trial Judge granted a sum of Rs.3,000/- to the first respondent as monthly maintenance and Rs.3,000/- to the second respondent till he attains majority. The learned trial Judge considered the above aspect and correctly fixed the monthly maintenance of Rs.3,000/- to each respondent, on the basis of the oral and documentary evidence. Since in all aspects the learned trial Judge correctly decided the entitlement of the respondents to claim maintenance from the petitioner, and reasonably fixed monthly maintenance of Rs.3,000/- to each respondent considering the income source of the first respondent and needs of the respondents and socio economic status of the parties and present day cost of living, this Court does not find any ground to differ with the findings of the learned trial Judge.

9. The learned counsel for the petitioner submitted that the second respondent has become a major. In the order itself, the learned trial Judge has clearly stated that the second respondent is entitled to receive maintenance till he attains majority. Hence, this Court need not consider the said submission.



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10. with the above observation, the order of the learned Judicial Magistrate, Pattukottai, in M.C.No.17 of 2016, dated 18.07.2018, is hereby confirmed and this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

**02.11.2023**

NCC : Yes/No  
Index : Yes/No  
Internet: Yes/No  
dss/sbn

To

1. The Judicial Magistrate,  
Pattukottai.
2. The Section Officer,  
Criminal Section(Records),  
Madurai Bench of Madras High Court, Madurai.



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**K.K.RAMAKRISHNAN, J.**

dss

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