



*CrI.R.C.(MD).No.924 of 2019*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01.12.2023

CORAM

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

CrI.RC.(MD).No.924 of 2019

K.Andi

... Petitioner

Vs.

Alagammal

... Respondent

**PRAYER:** Criminal Revision Case has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the order passed in M.C.No.6 of 2017, dated 25.07.2018 on the file of the District Munsif cum Judicial Magistrate No.1, Usilampatti and set aside the same.

For Petitioner : Mr.K.K.Samy

For respondents : Mr.M.Jothi Basu

**ORDER**

This Criminal Revision Case has been filed against the impugned order in M.C.No.6 of 2017, on the file of the District Munsif cum Judicial Magistrate No.1, Usilampatti, dated 25.07.2018 and set aside the same.



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2. The brief facts of the case is that the marriage between the petitioner and the respondent took place 35 years back. According to the respondent/wife, during the wedlock, four daughters and one son were born to them. Thereafter, due to some matrimonial discord, they were separated and living separately. In the mean time, the respondent herein filed a petition under Section 125 Cr.P.C., in M.C.No.6 of 20017, claiming maintenance from the petitioner, before the learned District Munsif cum Judicial Magistrate No.I, Usilampatti.

3. After full-fledged trial, the Court below allowed the petition in part filed by the respondent and awarded a sum of Rs.750/- to the respondent towards maintenance. Aggrieved over the same, the petitioner herein has filed this Criminal Revision Case before this Court.

4. The learned counsel for the petitioner submitted that the respondent without any reasonable cause, left the matrimonial home and hence, she is not entitled for maintenance. He further submitted that the respondent also has not substantiated the allegation that he has illicit



relationship with some other lady and also he produced a document to show his ill-health. The same was not properly considered by the learned trial Judge and granted a sum of Rs.750/- as maintenance. The learned counsel further submitted that she is under the care of her son. In the said circumstances, she is not entitled to get maintenance.

5.The learned counsel for the respondent submitted that the above contention was considered by the learned trial Judge and also considering the law laid down by the various High Courts and also the Hon'ble Supreme Court, the learned trial Judge correctly granted maintenance. Even if divorce is granted on desertion, the wife is entitled to get maintenance. The learned trial Judge has considered all the aspects and granted only a sum of Rs.750/- as monthly maintenance. Therefore, he seeks for dismissal.

6.This Court considered the rival submissions made by the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.



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7. There is an allegation in the petition that the petitioner had illicit relationship with another lady and it is specifically averred that the petitioner caused cruelty and driven out the respondent from the matrimonial home. But, the said allegation was denied by the learned counsel for the petitioner. The learned trial Judge has held that there is sufficient cause for the separation from the petitioner. The said appreciation of facts, need not be interfered in this revision. It is admitted that till date the petitioner has not filed any petition for divorce. Further, as held by the learned trial Judge, even if divorce is granted on desertion she is entitled to get maintenance. In view of the peculiar circumstances, the submission of the learned counsel for the petitioner is not accepted and it is the specific case of the respondent/wife that the petitioner has a sum of Rs.4,00,000/- and he earns more than a sum of Rs.5,000/- per month as a daily wager and also he has income from the finance business. In the said circumstances, it is relevant to note that the guidelines issued by the Hon'ble Supreme Court in the case of **Rajnish v. Neha**, reported in **(2021) 2 SCC 324** to determine the monthly maintenance:



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- “1. Status of the parties.*
- 2. Reasonable wants of the claimant.*
- 3. The independent income and property of the claimant.*
- 4. The number of persons, the non-applicant has to maintain.*
- 5. The amount should aid the applicant to live in a similar lifestyle as he/she enjoyed in the matrimonial home.*
- 6. Non-applicant's liabilities, if any.*
- 7. Provisions for food, clothing, shelter, education, medical attendance and treatment, etc. of the applicant.*
- 8. Payment capacity of the non-applicant.*
- 9. Some guesswork is not ruled out while estimating the income of the non-applicant when all the sources or correct sources are not disclosed.*
- 10. The non-applicant to defray the cost of litigation.*
11. The amount awarded under Section 125 CrPC is adjustable against the amount awarded under Section 24 of the Act.”

8. The learned trial Judge, after considering the above aspects and also taking into account of the present day cost of living granted



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reasonable amount of Rs.750/- as a monthly maintenance to the respondent. This Court does not find any infirmity and perversity in the impugned order. The Hon'ble Supreme Court repeatedly held that the revisional Court has no jurisdiction to interfere with the quantum of maintenance awarded by the learned trial Judge unless it is perverse. In this case, the learned trial Judge considered the income of the petitioner and decided the issue in accordance with law.

9. For the above said reasons, this Criminal Revision case fails and the same is dismissed. The order passed by the learned District Munsif cum Judicial Magistrate No.1, Usilampatti, in M.C.No.6 of 2017, dated 25.07.2018 is hereby confirmed.

**01.12.2023**

NCC :Yes / No

Index :Yes / No

Internet :Yes / No

*sbm*



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To

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- 1.The District Munsif cum Judicial Magistrate No.1,  
Usilampatti.
- 2.The Section Officer,  
Criminal Section (Records),  
Madurai Bench of Madras High Court,  
Madurai.



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

*sbn*

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