



Crl.R.C.(MD).No.664 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 24.01.2023

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THE HONOURABLE MR. JUSTICE G.ILANGO VAN

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Thirumal Kamatchi

... Petitioner

Vs.

1.Thilagavathi
2.Minor Jeevadarshini
3.Minor Vishal

... Respondents

(2nd and 3rd respondents are minors and represented through 1st respondent/their mother)

PRAYER: This Criminal Revision Case is filed under Sections 397 and 401 of the Criminal Procedure Code, to call for the records pertaining to the order passed in Cr.M.P.No.46 of 2019 against M.C.No.46 of 2010, dated 23.05.2022 on the file of the Family Court, Ramanathapuram and set aside it as illegal.

For Petitioner : Mr.K.Samy

For Respondents : Mr.B.Sekar
Legal Aid Counsel



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ORDER

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This Criminal Revision Case has been filed against the order passed in Cr.M.P.No.46 of 2019 against M.C.No.46 of 2010, dated 23.05.2022 on the file of the Family Court, Ramanathapuram.

2.The facts in brief:

It is a case of the matrimonial dispute between the husband and wife. The wife filed a petition under Section 125 of Cr.P.C. in M.C.No.46 of 2010 before the learned Chief Judicial Magistrate, Ramanathapuram. Thereafter, it was transferred to the Family Court, Ramanathapuram. The wife has stated that the original petition that was filed by her in M.C.No.46 of 2010 was allowed directing the husband to pay a sum of Rs.3,000/- as maintenance to herself and Rs.1,500/- each to the children. Against which, C.R.P.(MD).No.11 of 2012 was preferred and in the order, it was modified to the effect that the husband is not liable to pay maintenance to the wife and in respect of the children that was maintained. Even after the passing of the order in the civil revision, the husband was not regular in paying the maintenance amount. Due to the rise in the cost of living in present day situation, she filed enhancement petition seeking a direction to the husband to pay a sum of Rs.10,000/- each to the children. That was resisted by the



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husband. The entire arrear amount was paid regularly and the entire school expenses is also borne by him. At the conclusion of the enquiry, the trial Court found that the maintenance amount of Rs.1,500/- is very meagre and considering the economic situation, it was raised to Rs.2,500/- from the date of the petition. The order was passed on 23.05.2022. Now challenging the above said order, this revision has been preferred by the husband on the very same ground that he was regularly paying the maintenance amount to the children and there is no reason for enhancement.

3.Heard both sides.

4.The learned counsel for the revision petitioner would submit that now, he has performed second marriage and out of the second marriage, he got two children also and he is only working as a labour and so, he is not in a position to pay the enhanced amount. Since the respondents did not entered appearance either in person or through any counsel, Legal Aid Counsel was appointed to defend the revision on behalf of the children.

5.In the light of the above said submissions, now let us go to the evidence on record as narrated by the Family Court. He has stated before the



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trial Court that he is a painter by profession and during the period of rainy season, he may not have any work. He has also suffered injury in an accident.

6.After a long gap of 10 years, the above said enhancement petition has been filed. Divorce was also granted in H.M.O.P.No.93 of 2010 by the order, dated 28.03.2012. So absolutely there is no possibility of reunion between the husband and wife. At the time of main petition, the children were aged about 6 and 3 ½ years respectively. Now they attained 18 and 15 ½ years respectively. Considering the above said situation only the amount has been enhanced to Rs.2,500/-. Absolutely, there is no evidence on the side of the revision petitioner before the trial Court to show that he suffered injury because of the accident.

7.Even a painter by profession usually can get Rs.900 to 1000 per day in the present day situation. Considering the above said position of the parties and the children, I am of the considered view that no ground has been made out by the petitioner to interfere into the order that has been passed by the trial Court.



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8.This petition deserves to be dismissed. Accordingly, **dismissed**.

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24.01.2023

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

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To

1.The learned Judge, Family Court, Ramanathapuram.



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G.ILANGOVA,N,J.

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