



Crl.R.C.(MD)No.629 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.12.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.629 of 2020

and

Crl.M.P(MD).Nos.5922 and 5923 of 2020

C.Chockalingam

... Revision Petitioner/Respondent

Vs.

1. Deivanai

2. Minor C.Nachamai

3. Minor C.Sairaja

... Respondents/Petitioners

***(Minor 2 and 3 respondents represented
through their mother the 1st Respondent
herein)***

PRAYER: Criminal Revision Petition has been filed under Section 397
r/w 401 of Cr.P.C., to call for the records and proceedings relating to the
order passed in M.C.No.75 of 2018 dated 15.02.2020 on the file of the
learned Family Judge, Trichy and set aside the same.



Crl.R.C.(MD)No.629 of 2020

For Petitioner : Mr.S.J.Chakkaravarthy

For Respondents : Mr.S.Vinod Sathya Lazar
for R1

ORDER

The petitioner/husband filed this petition challenging the order passed in M.C.No.75 of 2018 dated 15.02.2022, by the learned Family judge, Trichy.

2.The petitioner is the father of the second and third respondents. and husband of the first respondent. The marriage between the petitioner and the first respondent was solemnised on 07.11.2011. During the subsistence of marriage, the second and third respondents were born. The first respondent filed M.C.No.75 of 2018 claiming maintenance of Rs. 35,000/-. The petitioner herein/husband filed the counter stating that the first respondent is working as Ayurvedic Doctor and earning sufficiently. But, he is working in a jewellery shop owned his father for a salary of Rs.10,000/- per month. He also stated that even though he is ready to live with the first respondent and the children, they refused to live with him. Hence, he seeks for the dismissal of the maintenance petition.



Crl.R.C.(MD)No.629 of 2020

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3. The first respondent, to prove the claim examined herself as PW.1 and marked the documents Ex.P1 to Ex.P9 and the petitioner/husband examined himself as RW1 and also examined RW2 to RW6 and also marked Ex.R1 to Ex.R3. The learned trial Judge, after considering the evidence of the petitioner/respondent RW.1 to RW.6 and the documentary evidence held that the wife is not entitled for maintenance and she herself left the matrimonial home and earning sufficiently. Hence, the learned trial Judge, considering the facts of the case and also taking into consideration the petitioner's submission that he is working in the jewellery shop of his father, granted maintenance to the children alone. The learned trial judge also considered the other aspect relating to the possession of the property as per the evidence of RW1 granted maintenance of Rs.10,000/- each to the children. Challenging the same, the petitioner/husband filed this revision before this Court.

4. The learned counsel for the petitioner submitted that there is no dispute relating to the relationship and also the revision is only confined to the quantum of maintenance.



Crl.R.C.(MD)No.629 of 2020

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5. The petitioner examined himself as R.W.1. He deposed that he has house at Coimbatore. His father was running a jewellery shop in the name and style of Sona Jewellery and in the said jewellery shop, he was working. According to him, his monthly salary is Rs.10,000/-. The Learned counsel for the petitioner produced before the Court a salary certificate issued by his father and also the income tax returns. The said documents were not produced before the Court below and hence, this Court is not inclined to accept the same. On the consideration of the evidence of R.W.1 and taking into consideration that he is managing his father's jewellery shop and having a house at Coimbatore, this Court declines to interfere with the amount of maintenance granted in favour of his two children at the rate of Rs.10,000/- per month. When the 1st respondent pleaded that he is enjoying the fruits of the jewellery shop, it is the duty of the petitioner to disprove the same. He admitted that the jewellery shop stands in his father's name and he is managing the said jewellery shop, and this Court can easily presume that he is earning sufficiently from the said jewellery shop. Therefore, considering the present day cost of living and social status of the petitioner and respondent, the grant of maintenance of Rs.10,000/- to each child needs



Crl.R.C.(MD)No.629 of 2020

no interference. The Hon'ble Supreme Court also reiterated the principle that this court has no jurisdiction to reduce the maintenance without any perversity in the order of maintenance. In the result, the revision is liable to be dismissed.

6. Accordingly, this Criminal Revision Case is dismissed with direction to the petitioner to deposit the entire arrears amount within two months from the date of the receipt of the copy of the order excluding the amount which had already been deposited. Consequently, the connected criminal miscellaneous petitions are closed.

15.12.2023

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

PJL

To

1. The Judge,
Family Judge, Trichy.
2. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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Crl.R.C.(MD)No.629 of 2020

K.K.RAMAKRISHNAN, J.

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Crl.R.C(MD)No.629 of 2020
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Crl.M.P(MD)Nos.5922 and 5923 of 2020

15.12.2023