



Crl.R.C.(MD).No.725 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.08.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.725 of 2023
and
Crl.MP(MD)No.10026 of 2023

V.Maruthamalaiyan Iyyappan

... Petitioner/Respondent

Vs.

1.R.Gayathridevi

2.Minor M.Manimuthuram

... Respondents/Petitioners

(The 2nd respondent is represented through his natural guardian
and mother (i.e.) 1st Respondent)

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order passed in M.C.No.20 of 2022 dated 30.03.2023 on the file of the Learned Family Court, Tirunelveli and set aside the same.

For Petitioner : M/s. K.Sivabalan

For Respondents : Mr.T.Selvan



Crl.R.C.(MD).No.725 of 2023

ORDER

WEB COPY

This petition has been filed to set aside the order passed in M.C.No.20 of 2022 dated 30.03.2023 on the file of the Learned Family Court, Tirunelveli.

2. The petitioner is the husband filed this revision challenging the maintenance order granted in favour of the respondents by the impugned order dated 30.03.2023 in M.C.No.20 of 2022 on the file of the learned Family Court, Tirunelveli.

3.1. The petitioner married the first respondent on 12.09.2018. Out of wedlock, the second respondent was born. According to the first respondent, the petitioner caused cruelty to her. Hence, she left matrimonial home and staying with her mother's house. In this aspect, the first respondent also gave a complaint before the police station. In the said complaint, the petitioner undertakes to take the respondents within a month. But, he did not take them. The further allegation is that the petitioner entered second marriage with his sister's daughter. Therefore, he insisted the first respondent for mutual divorce. But, she refused the same. In the said circumstances, the respondents filed maintenance petition by claiming a sum of Rs.17,000/- per month.



Crl.R.C.(MD).No.725 of 2023

WEB COPY

3.2. The learned trial Judge after considering the oral evidence of the first respondent and the petitioner and Ex.P.1 to Ex.P.9 and Ex.R.1 to Ex.R.4, granted maintenance of Rs.4,000/- to each respondent from the date of filing of the petition.

4. Aggrieved against the same, the present Revision has been filed by the petitioner.

5. The learned counsel for the petitioner submitted that the first respondent is working in the private software company and earning a sum of Rs.50,000/- per month and the petitioner is earning only Rs.10,000/- per month. In that amount, he is liable to pay the due amount for the vehicle purchased for his job of photographer. He further submitted that since the first respondent/wife is earning a sum of Rs.50,000/- by doing job in a private software company, she is not entitled to get maintenance. Hence, he seeks for deduction of maintenance amount granted by the Court below.



Crl.R.C.(MD).No.725 of 2023

WEB COPY

6. The learned counsel for the petitioner further submitted that the first respondent herself separated the company of the petitioner and hence, she is not entitled to get maintenance. However, he is ready to pay the maintenance to the second respondent namely, the child.

7.1. Per contra, the learned counsel for the respondents submitted that at the time of marriage only, the first respondent/wife was working in the private software company and earned a sum of Rs.50,000/-. After giving birth of child, in order to take care of the child, she had resigned her job and hence, on the date of filing of the petition and during the pendency of the revision also she is not working anywhere as alleged by the petitioner.

7.2. The learned counsel for the respondents further submitted that the petitioner is working as representative job and earns a sum of Rs.30,000/- per month and also his family is having salt business. Hence, the petitioner is having sufficient means to pay maintenance to the respondents. Even in the counter filed before the trial Court, the petitioner admitted the relationship. Hence, he is liable to pay maintenance to the respondents.



Crl.R.C.(MD).No.725 of 2023

WEB COPY

8. This Court considered the submission of the both parties and perused the records and the impugned order.

9. The petitioner admitted the relationship of the respondents. There was no legal divorce petition and also there is no dispute regarding the nature of job. The only dispute is that earning of the petitioner i.e., Rs.10,000/-. The learned trial Judge perused the entire evidence and came to the conclusion that the petitioner earns a sum of Rs.10,000/-. Further, the petitioner also assists his father's salt vending business and also gets monthly income. Considering the overall circumstances, the learned trial Judge, correctly granted Rs.4,000/- to the each respondent.

10. It is well settled principle that the petitioner is duty bound to maintain the respondents as a husband and as a father. The petitioner has not established the case that the first respondent earning a sum of Rs.50,000/- per month. When the trial Court considered all the aspects in granting maintenance, this Court has no power to interfere in the quantum of maintenance as held by the Hon'ble Supreme Court judgment in **Rajathi v. C. Ganesan reported in AIR 1999 SC 2374:-**



Crl.R.C.(MD).No.725 of 2023

WEB COPY

“12. It was not necessary for the High Court to examine the whole evidence threadbare to exercise jurisdiction under Section 482 of the Code. Rather in a case under Section 125 of the Code the trial court is to take a prima facie view of the matter and it is not necessary for the Court to go into the matrimonial disputes between the parties in detail. The section provides maintenance at the rate of Rs 500 per month. There is an outcry that this amount is too small. In the present case, however, we are quite surprised that the Court granted a paltry amount of Rs 200 per month as maintenance which was confirmed in the revision by the Sessions Court and the High Court thought it fit to interfere under Section 482 of the Code in exercise of its inherent jurisdiction.”

11. Accordingly, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

16.08.2023

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



WEB COPY



Crl.R.C.(MD).No.725 of 2023

To

1. The Family Court,
Tirunelveli.
2. The Section Officer,
Record Section (Criminal),
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C.(MD).No.725 of 2023

K.K.RAMAKRISHNAN, J.

dss

Crl.RC(MD)No.725 of 2023
and
Crl.MP(MD)No.10026 of 2023

16.08.2023