



CrI.R.C.(MD).No.792 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.09.2023

Delivered on : 19.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.R.C(MD). No.792 of 2022
and
CrI.M.P(MD). No.9857 of 2022

Kantharuban @ Suresh

.. Petitioner / Respondent/

Respondent

Vs.

Kalaiselvi
Petitioner

.. Respondent / Petitioner /

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the entire records relating to the impugned order of enhanced maintenance passed by the learned Judge, Family Court, Tirunelveli in Cr.M.P.No.270 of 2021 in M.C.No.57 of 2009 dated 25.07.2022 and to set aside the same.

For Petitioner : Mr.S.Veeranasamy



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For Respondent : Mr.P.Samuel Gunasingh

ORDER

This revision petition is filed against the impugned order dated 25.07.2022, passed in Cr.M.P.No.270 of 2021 in M.C.No.57 of 2009, wherein the learned trial Judge enhanced the maintenance amount from Rs.3000/- to Rs.12,000/-.

2. Case of the wife before the trial Court:

The petitioner entered into marriage with the respondent on 07.06.1996. Out of the wedlock, two male children were born to them. The petitioner/husband is said to have harassed the respondent/wife and has driven out the respondent from the matrimonial home on 11.03.2009. Therefore, she went to the native place and was residing separately along with the children. Thereafter, she filed a petition in M.C.No.57 of 2009 before the learned Chief Judicial Magistrate, Tirunelveli, claiming maintenance amount for herself and her two children. In the said maintenance case, on 18.03.2011, an order was passed with a direction to the petitioner to pay a sum of Rs.1750/- per month to the respondent/wife and Rs.2250/- to the children. The petitioner took custody of his first son



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Sudalaimani after he attained majority. Thereafter, the respondent/wife filed Cr.M.P.No.155 of 2015 for enhancement of the maintenance amount. The said petition was ordered on 27.10.2015, wherein the amount was enhanced to Rs.3000/- each, to the respondent/wife and the another son Naresh. Now, the said Naresh attained majority. Eventhough he attained majority, the respondent/wife has to meet out the educational expenditure, which is high. The petitioner/husband is working as an Assessment Engineer in the Tamilnadu Electricity Board and earning more than Rs.50,000/- per month and he also is earning through the agricultural property. The first son also is working in Africa and earning more than Rs.35,000/- per month. The said income was also appropriated by the petitioner. The respondent/wife has no permanent job and the maintenance amount of Rs.3,000/- is not sufficient to maintain themselves and hence she filed another petition to enhance the maintenance amount from Rs.3000/- to Rs.30,000/- for their livelihood and for further education of her son Naresh.

2.1. The said petition was contested by the petitioner/husband stating that he received only Rs.30,944/- per month and obtained a



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personal loan for a sum of Rs.4,75,000/- from the Canara Bank for the studies of his first son Sudalaimani. For the said loan Rs.10,400/- is being deducted from his salary and he received only Rs.20,544/- per month. As on date, he is also duty-bound to maintain his age-old mother. Further, he denied the averment that he received the agricultural income of Rs.20,000/- per month. His first son, Sudalaimani is doing coolie work in the foreign country and he did not send any money as pleaded by the respondent/wife and the petitioner alone is sending money to his first son whenever he needed. He further stated that Rs.3000/- is sufficient to maintain the respondent/wife.

3. The learned trial Judge has considered the entire evidence, ie., Ex.P1 to Ex.P3 and Ex.R1 to Ex.R3 and also examined the petitioner/wife as PW.1 and the respondent/husband as RW.1 and also considered the fact that the petitioner is earning more than Rs.30,000/-, enhanced the maintenance amount from Rs.3000/- to 12,000/-. The said order was challenged by the revision petitioner in this revision petition.



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4. The learned counsel for the petitioner/husband submitted that eventhough as per the salary slip, the monthly salary amount is Rs. 53,133/-, after deduction, he is getting only Rs.31,993/- and from the said Rs.31,993/-, he is duty-bound to pay Rs.10,000/- per month towards the loan already he obtained from the Canara Bank and also to take care of his age old mother. In view of the above fact, the enhancement of maintenance amount from Rs.3000/- to Rs.12,000/- per month is on the higher side and hence he seeks to reduce the amount already enhanced.

5. The learned counsel for the respondent/wife submitted that considering the present cost of living and the second son is not getting any job and who is eager to pursue his higher studies, the maintenance amount was suitably enhanced by the learned trial Judge and hence, the same was not liable to be interfered.

6. This Court has considered the rival submissions made by both parties and perused the records and also the impugned order passed by the learned trial Judge.



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WEB COPY 7. Insofar as the submission of the learned counsel for the petitioner/husband that the enhanced amount is exorbitant, is concerned, considering the present-day cost of living and her second son, after completing his Diploma in Engineering, now joining the Bachelor of Engineering Course which incurs more expenditure demanded filing of the enhancement petition and the learned trial Judge correctly enhanced the same from Rs.3000/- to Rs.12,000/-. Hence, this Court finds no merit in the contention of the learned counsel for the petitioner that the amount enhanced is exorbitant.

8. The learned counsel for the petitioner produced some certificate showing that the petitioner's second son completed the studies. According to the learned counsel for the respondent/wife, after completion of Diploma studies, now he is pursuing the B.E., professional course. The petitioner did not produce any evidence to prove that either the respondent/wife or the second son is earning sufficiently to meet out their expenses. In the said circumstances, this Court is not inclined to interfere with the order passed by the learned trial Judge.



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WEB COPY 9. The learned trial Judge correctly held that the second son is incurring huge expenses towards education and he also wants to join Engineering course after completion of Polytechnic course. Eventhough he attained majority, it is the duty of the petitioner as a father to give good education and other needs of the son. Further, the learned trial Judge considered the various aspects, ie., the employment of the petitioner and his salary, economic and social status of the parties, requirement of the respondent/wife and her second son, who is pursuing his professional Engineering Course and the present day cost of living, enhanced the amount from Rs.3000/- to Rs.12,000/- and he correctly ordered to pay the enhanced amount from date of petition, ie., 01.09.2021. The learned trial Judge considered the entire aspect and enhanced the maintenance amount. Hence, this Court is not inclined to interfere the order impugned in this revision petition.

10. In the result, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed.

19.10.2023



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

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



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K.K.RAMAKRISHNAN, J.

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