



Crl.R.C(MD)No.330 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**Crl.R.C(MD)No.330 of 2018
and
Crl.M.P(MD)No.4572 of 2018**

Raja @ Periyakaruppan

... Revision Petitioner/
Respondent

Vs.

1.Jeyanthimaala
2.Veluprabhakaran

... Respondents/
Petitioners

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records in M.C.No.18 of 2015, dated 18.05.2018 on the file of the learned Judicial Magistrate No.II, Usilampatti and set aside the same.

For Petitioner : Mr.S.C.Herold Singh

For R – 1 : Mr.M.Jothi Basu



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ORDER

This revision has been filed to set aside the order made in M.C.No.18 of 2015, dated 18.05.2018, on the file of the learned Judicial Magistrate No.II, Usilampatti.

2.The petitioner is the husband and the first respondent is the wife. They got married on 25.06.2007. During the marriage, the petitioner was presented with jewels and household articles by the first respondent's family. After their marriage, they gave birth to the second respondent on 16.10.2009. Thereafter, the petitioner demanded huge dowry from the first respondent and he also had driven out the first respondent along with his child and he had also beaten her to the core as such, the first respondent could not able to maintain herself and also she had no source of income to maintain the second respondent. Hence, the first respondent along with the second respondent filed a petition in M.C.No.18 of 2015 for maintenance under Section 125 of Cr.P.C as against the petitioner.



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3.On the side of the respondents, the first respondent herself was examined as P.W.1 and marked Exs.P.1 to P.6 and on side of the petitioner, he examined D.W.1 to D.W.6 and marked Exs.D.1 and D.2.

4.On perusal of the oral and documentary evidence, the trial Court ordered maintenance of Rs.4,000/- each to the respondents. Aggrieved by the same, the petitioner has filed the present Revision.

5.The learned counsel appearing for the petitioner would submit that the petitioner is a daily coolie and he is only earning a sum of Rs.200/ per day. Therefore, he is not in a position to pay a sum of Rs.8,000/- per month to the respondents. The Court below failed to consider the income of the petitioner and the status of the petitioner while ordering maintenance. Already, the petitioner has an obligation to maintain his aged mother. He is the only breadwinner of his family and has no other source of income. The first respondent also failed to prove his income and as such, the



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Court below ought not to have ordered maintenance of Rs.8,000/- per month to the respondents.

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6.Per contra, the learned counsel appearing for the first respondent would submit that so far the petitioner did not even pay single paise as maintenance to the respondents. The trial Court issued Non-Bailable Warrant, on the basis of the petition filed by the first respondent for the execution of the maintenance order and it is still pending. The petitioner, being the husband, is duty-bound to maintain his wife and child. Therefore, the trial Court rightly ordered maintenance and it is also a very meagre one and prayed for dismissal of the revision.

7.Heard the learned counsel appearing on either side and perused the materials available on record.

8.Admittedly, the petitioner got married to the first respondent and gave birth to the second respondent. Thereafter, he also demanded dowry and he had driven out the respondents from the matrimonial home. Admittedly, the first respondent could not



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able to maintain herself and maintain the second respondent, since she has no source of income. The specific case of the first respondent is that the petitioner is doing money lending business and earning not less than a sum of Rs.20,000/- per month. That apart, the petitioner, being the husband of the first respondent and father of the second respondent, is duty-bound to maintain them. Therefore, the trial Court rightly ordered maintenance of Rs.4,000/- each in favour of the respondents. In fact, this amount is a very meagre one. That apart, the respondent filed a petition for the execution of interim maintenance order, in which the trial Court issued Non-Bailable Warrant as against the petitioner and it is pending. When Non-Bailable Warrant is pending as against the petitioner, he is not entitled for any relief. Hence, this Court finds no infirmity or illegality in the order passed by the Court below.

9. Accordingly, this Criminal Revision Case is dismissed.

Consequently, connected Miscellaneous Petition is closed.

31.03.2023

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

- 1.The Judicial Magistrate No.II,
Usilampatti.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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