



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

CrI.RC(MD)No.1151 of 2022

and

CrI.M.P(MD) No.14455 of 2022

K.Suresh

... Petitioner/Respondent

Vs.

Renuga

... Respondent/Petitioner

Prayer:- This Criminal Revision Petition has been filed under section 397 r/w 401 of the Criminal Procedure Code, to Call for the records and set aside the order passed by the Family Court, Srivilliputtur in M.C No. 37 of 2018 on 16.08.2022 and allow this Criminal Revision Petition.

For Petitioner : Mr. Jothi Basu M

For Respondent : Mr. S.Sankarapandian

ORDER

This criminal revision has been filed seeking to Call for the records and set aside the order passed by the Family Court, Srivilliputtur in M.C No.37/2018 on 16.08.2022 and allow this Criminal Revision



Petition.

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The facts in brief:

The revision petitioner and the respondent are son and mother.

The mother filed petition under Section 125(d) of Cr.P.C. before the Family Court, Srivilliputhur, seeking maintenance from the son on the following grounds.

2. Out of the marriage with one Kasirajan, three children were born, among them, the revision petitioner is the first son. All the three children were taken proper care by the parents. After marriage of the children, they were residing separately. Second son namely Sridhar also went away from the village by marrying a girl. Daughter is also living in Madurai along with her family. Respondent's husband died on 02.08.2018, she filed M.C.No.10 of 2013 before her husband's death and that was also withdrawn on the promise made by her husband. Later she filed M.C. No.13 of 2018 against her husband, when that was pending, he died. No property was also left by her husband. Her husband executed a document of gift in favour of the revision petitioner in respect of four shops in a complex and from the above said shopping complex he is



getting Rs.25,000/- as rent and apart from that he is also doing self business. The mother is in helpless condition without any proper care. Seeking maintenance amount of Rs.10,000/- she filed the petition. That was allowed by the Family Court, Srivilliputhur, directing the revision petitioner to pay a sum of Rs.6,000/- per month apart from cost.

3. Challenging the same, this revision has been preferred. The learned counsel for the revision petitioner would submit that the family Court lacks jurisdiction to entertain the petitioner under Section 125 of Cr.P.C. Even though, the respondent is having three children, no petition was filed seeking maintenance from other children. After death of her husband, she was maintaining herself throughout these years. So, he is not liable to pay any maintenance to his mother.

4. Per contra the learned counsel for the respondent would submit that in 2007, the revision petitioner sold a property belongs to the family, which shows that he got sufficient means to maintain his mother.



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5. Heard both sides. Even though jurisdictional point has been raised by the revision petitioner, I am not convinced with the above said ground. Since notification of Constitution of Family Court itself shows that the Family Courts are empowered to take up the issue between the children and other also. After elaborate consideration only, the trial court has passed the order. Simply because the other children are also available, the responsibility of the petitioner cannot be disputed. The ground that after death of the father, she was able to maintain herself throughout these years cannot also be a ground for rejecting her request. The very fact of finding the repeated maintenance applications against her husband shows that she was unable to maintain herself. There is no evidence on record to show that the mother is deriving income either from family source or from independent source. With the above said materials ordering of payment of Rs.6,000/- per month cannot be challenged on any ground apart from the legal duty, the revision petitioner also have a moral duty to maintain his mother.

6. The mother is aged about 56 and she approached this Court at advance her age at the age of 58, but the revision petition is aged about



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37 who is hale and healthy now, which is sufficient for maintaining his mother.

7. I find absolutely no reason to entertain this revision. The order that was passed by the Family Court, Srivilliputtur, in M.C.No.37 of 2018 dated 16.08.2022 is confirmed. It does not suffer from any illegality.

8. In the result, this petition deserves dismissal and accordingly dismissed. Consequently, the connected Miscellaneous Petition is closed.

28.02.2023

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

To

The learned Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAAN,J

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