



CrI.R.C.No.2123 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.R.C.No.2123 of 2023

And

CrI.M.P.No.19289 of 2023

Mathizhagan

... Petitioner

Vs.

1.Rajamani

2.Nathiya

... Respondents

Prayer:

Criminal Revision Case filed under Sections 397(2) r/w 401 of Criminal Procedure Code, seeking to set aside the order passed in C.M.P.No.1046 of 2020 in M.C.No.6 of 2001 and stayed further proceedings in C.M.P.No.1046 of 2020 on the file of Judicial Magistrate, Tiruchengode dated 01.09.2022.

For Petitioner : Mr.S.Agalya

For Respondents : No Appearance

O R D E R

The criminal revision case has been filed seeking to set aside the order dated 01.09.2022 passed in C.M.P.No.1046 of 2020 in M.C.No.6 of 2001 by the learned Judicial Magistrate, Tiruchengode.



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2.The facts of the case is that the petitioner is the husband and the first respondent is the wife. Their marriage was solemnized on 14.11.1994 and out of the wedlock, they were blessed with the second respondent. There was a matrimonial dispute between them and the respondents filed maintenance case under Section 125 of Cr.P.C. in M.C.No.6 of 2001 before the learned Judicial Magistrate, Tiruchengode seeking maintenance and the said case was partly allowed and the petitioner was directed to pay a sum of Rs.1,000/- per month (Rs.500/- to the first respondent and Rs.500/- to the second respondent till she attain majority) towards maintenance from the date of the petition. Since the maintenance amount was not paid, the respondents filed C.M.P.No.1046 of 2020 in M.C.No.6 of 2001 before the Judicial Magistrate, Tiruchengode seeking direction to the petitioner to pay the arrears in maintenance of a sum of Rs.1,05,500/- to the first respondent from 03.01.2003 to 02.08.2020 and a sum of Rs.60,000/- to the second respondent from 03.01.2003 to 02.09.2013, till the second respondent attained majority and the said petition was allowed. Challenging the same, the present revision has been filed.



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3.The learned counsel for the petitioner submitted that during the year 2005 there was settlement inbetween the petitioner and the first respondent and the first respondent claimed that she will not file any petition in future and contrary to that, she filed C.M.P.No.1046 of 2020 and the same was allowed by the Court below which is not sustainable one.

4.Heard the learned counsel appearing for the petitioner. Though notice was ordered to the respondents, today when the matter was taken up for consideration, there is no representation for the respondents. Hence, this Court is inclined to dispose of the case based on the materials available on record.

5.The grounds on which maintenance can be rejected to the wife can be on the ground that wife is able to maintain herself and she has the requisite means to maintain herself; that she is living in adultery; and where the person, who offers to maintain his wife on condition of her living with him and she refuses to live with him.

6.In the case on hand, it is not the case of the petitioner that



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wife has sufficient means to maintain herself by her earnings or that she is living in adultery or that he is ready to maintain her if she comes and lives with him, but his wife is refusing to unite with him. There is no specific plea on the aforesaid three fronts and therefore, necessarily the wife is entitled to maintenance and appreciating the above in proper perspective, the Court below has granted maintenance.

7.The facts of the case and the relationship between the parties is not disputed. Admittedly, the respondents filed maintenance case under Section 125 of Cr.P.C. in M.C.No.6 of 2001 before the learned Judicial Magistrate, Tiruchengode seeking maintenance and the said case was partly allowed and the petitioner was directed to pay a sum of Rs.1,000/- per month (Rs.500/- to the first respondent and Rs.500/- to the second respondent till she attain majority) towards maintenance from the date of the petition. Since the maintenance amount was not paid, the respondents filed C.M.P.No.1046 of 2020 in M.C.No.6 of 2001 before the Judicial Magistrate, Tiruchengode seeking direction to the petitioner to pay the arrears in maintenance



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of a sum of Rs.1,05,500/- to the first respondent from 03.01.2003 to 02.08.2020 and a sum of Rs.60,000/- to the second respondent from 03.01.2003 to 02.09.2013, till the second respondent attained majority and the said petition was allowed. Unless the order passed in the maintenance case is set aside, the arrears of maintenance as sought for by the respondents cannot be denied. Hence, the impugned order warrants no interference.

8.This revision is dismissed. Consequently, the connected miscellaneous petition is closed.

01.08.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Judicial Magistrate,
Tiruchengode.



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