



Crl.RC.No.140 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.07.2024

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

Crl.RC.No.140 of 2024  
and  
CRL.MP.No.1189 of 2024

S.Vijayarahavan

...Petitioner

Vs.

1. V.Sumathi

2. Minor Rudrahari  
(*Rep. by his mother and  
natural guardian Mrs.Sumathi*)

...Respondents

Petition filed under Section 397 r/w 401 of Code of Criminal  
Procedure seeking to set aside the award of the Family Court, Chengalpattu  
made in F.C.M.C.No.08 of 2019 vide judgement dated 26.10.2023.

For Petitioner : Mr.M.R.Thangavel

For Respondents : No Appearance



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## **ORDER**

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This Criminal Revision case has been filed seeking to set aside the award of the Family Court, Chengalpattu made in F.C.M.C.No.08 of 2019 vide judgement dated 26.10.2023.

2. It is the case of the petitioner that the marriage between him and the 1<sup>st</sup> respondent / wife was solemnised on 04.06.2017 and out of the wedlock, the 2<sup>nd</sup> respondent was born. While so, due to some matrimonial dispute, the petitioner filed a petition seeking restitution of conjugal rights on the file of Principal District Court Thanjavur in H.M.O.P.No.220 of 2019 and subsequently, the first respondent filed a maintenance petition in F.C.M.C.No.8 of 2019 on the file of Family Court, Chengalpattu seeking a direction to the petitioner to pay a sum of Rs.20,000/- per month as maintenance to the first respondent and a sum of Rs.8,000/- per month to the second respondent for his basic amenities.

3. Before the court below, the petitioner examined himself as RW1 and marked Exs.R1 to R29. The 1<sup>st</sup> respondent examined herself as PW1



and marked Exs.P1 to P10. The court below, based on the oral and documentary evidence, vide impugned order, awarded a monthly maintenance of Rs.12,000/- per month to the respondents. Aggrieved by the same, the present revision has been filed.

4. Learned counsel appearing for the revision petitioner submitted that the monthly maintenance awarded by the trial court in favour of the respondents is highly excessive and the same was ordered by the trial court without taking into consideration the financial capacity of the petitioner. Further, the 1<sup>st</sup> respondent was working as Head of the Department (HOD) at Indira Gandhi Engineering College and was earning a sum of Rs.50,000/- per month and presently she is working at Meenakshi Hospital, Tanjore earning a sum of Rs.60,000/- per month which is sufficient to maintain herself and the 2<sup>nd</sup> respondent. While so, without considering the said facts, the trial court had mechanically awarded maintenance in favour of the respondents payable by the petitioner, which requires to be modified. Accordingly, he prayed for appropriate orders.



5. Though the notice was served on the respondents, no one appeared on their behalf. Considering the period of pendency of the revision petition, the same is disposed of based on the materials available on record.

6. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

7. There is no dispute about the marriage between the petitioner and the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent is the wife and out of wedlock, the 2<sup>nd</sup> respondent was born. It is to be pointed out that it is the duty of the husband to maintain his wife and child and the comforts, which were available to the spouse and child should not be lost due to the friction between the warring parties. Only to that end, Section 125 Cr.P.C. was brought into the statute. In such a backdrop, it becomes the duty of the husband to maintain his wife and child.

8. A careful perusal of the order passed by the court below reveals



that the court below has taken into consideration the documentary evidence as also the deposition of the witnesses examined by the respondents and had come to the conclusion that only to deny the benefit of maintenance to the respondents, certain acts have been perpetrated by the revision petitioner.

9. Further, it has to be pointed out that it is the duty of the husband to maintain his wife and the revision petitioner herein is duty bound to maintain his wife and child and rightly appreciating the above, maintenance has been awarded by considering the means of the revision petitioner. The maintenance awarded is just and reasonable and the same does not require any interference.

10. Though the petitioner claims that the first respondent is presently working at Meenakshi Hospital, Tanjore and earning a sum of Rs.60,000/- per month, however, he has not produced any proof either before the trial Court or before this Court to substantiate the said fact. In the absence of any such proof, the trial Court has rightly passed the impugned award which does not warrant any interference. If at the the petitioner has any such proof



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to show that the first respondent is currently working and earning a sum of Rs.60,000/- per month, it is open to the petitioner to file a modification petition before the trial Court, upon such petition being filed by the petitioner, the trial Court is directed to dispose of the same as expeditiously as possible.

11. For the reasons aforesaid, this Criminal Revision stands dismissed. Consequently, the connected Miscellaneous petition is closed.

**03.07.2024**

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Index : Yes/No  
Speaking order : Yes/No  
NCC : Yes/No



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To

Family Court, Chengalpattu



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**M.DHANDAPANI, J.**

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