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Crl.R.C.No.1004 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1004 of 2023

1. Alli Praveena
 2. Rakul
 3. Minor Harisudhan
 4. Minor Santhosh
- ... Petitioners

(Minor petitioners 3 and 4 represented their guardian / mother, the first petitioner viz., Alli Praveena)

Vs.

Senthil Kumar

... Respondent

PRAYER : Criminal Revision filed under Section 397 r/w Section 401 of the code of Criminal Procedure, 1973 to set aside the order dated 05.11.2022 made in M.C.No.30 of 2021 on the file of the Family Court, Salem.

For Petitioners	:	Mr.R.Nalliyappan
For Respondent	:	Not ready notice

ORDER

The present criminal revision petition has been filed to set aside the order dated 05.11.2022, passed by the learned Judge, Family Court, Salem, in M.C.No.30 of 2021.



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2. The petitioners are the wife and children of the respondent.

The marriage between the first petitioner and the respondent was solemnized on 11.07.1999. Due to matrimonial dispute and misunderstanding between them, they were living separately and the children are living with the first petitioner. In the meantime, the petitioners filed a maintenance case in M.C.No.30 of 2021 on the file of the Family Court, Salem, seeking maintenance of Rs.25,000/-. The trial Court, after hearing both sides, disposed of the petition, directing the respondent to pay a sum of Rs.2,000/- each to the petitioners 1, 3 and 4 on or before 5th of English calendar month, as monthly maintenance and also pay the arrears of maintenance from the date of filing of the petition till the date of the order passed in M.C.No.30 of 2021. However, insofar as the second petitioner is concerned, the petition was dismissed as against him for the reason that he attained majority. Challenging the said order, the petitioners filed the present revision petition.

3. The learned counsel for the petitioners submitted that the Court below awarded only a sum of Rs.2,000/- each to the petitioners 1, 3 and 4 as monthly maintenance without appreciating the fact that the



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respondent is doing tailoring work and doing broker business and drawing monthly salary of Rs.50,000/- and hence, the order of the Court below is to be set aside. It has to be pointed out here that the respondent herein has received the notice from the Court below, however, he did not appear before the Court below or before this Court to defend his case. The first petitioner is a mother and is working as a coolie and facing difficult to maintain day-to-day expenditure, hence, the order of Court below is to be set aside. He further submitted that the Court below, without considering all these facts, awarded a meager sum of Rs.2,000/- each to the petitioners 1, 3 and 4 on the ground that the first petitioner has not produced any proof to establish the income of the respondent. However, it would suffice if this Court permits the first petitioner to file a petition seeking enhancement under Section 127 of Cr.P.C before the Court below.

4. In view of the limited request made by the learned counsel for the petitioners, this Court, without interfering with the order impugned herein, permits the first petitioner to file a petition seeking enhancement in terms of Section 127 of Cr.P.C before the Court below



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along with the necessary proof, within a period of two weeks from the date of receipt of a copy of this order. If any petition is filed by the first petitioner, the Court below, after providing an opportunity of being heard to both parties, shall dispose of the same within a period of three months from the date of filing the petition filed by the first petitioner.

5. Accordingly, this Criminal Revision Petition is disposed of.

17.04.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji

To

The learned Judge,
Family Court,
Salem.



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M.DHANDAPANI, J.

vji

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