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Crl.R.C.No.950 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2024

CORAM :

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

Crl.R.C.No.950 of 2021

1.Louis Geetha

2.Minor Nithiesh Jayaprabu

3.Minor Ancy Jaya Dharshini

[R2 & R3 represented by their mother as
Natural Guardian Louis Geetha]

... Petitioners

Vs.

Sivakumar @ Praveenkumar

... Respondent

Prayer : Criminal Revision Case filed under Section 397 and 401 Cr.P.C,
praying to allow the criminal revision by setting aside the order of the
learned Judge, Family Court, Vellore, Vellore District in F.C.M.C.No.7
of 2014 dated 11.12.2020.

For Petitioners : M/s.C.Devi

For Respondent : Mr.N.Sudharsan



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ORDER

This Criminal Revision Case is filed against the order of the learned Judge, Family Court, Vellore, Vellore District dated 11.12.2020 made in F.C.M.C.No.7 of 2014.

2. It is the case of the petitioners that, the marriage between 1st petitioner and the respondent was solemnised on 26.01.2001 at Immanuel Lutheran Church as per the Christian Rites and Customs and the petitioners 2 and 3 were born from and out of the wedlock between the 1st petitioner and the respondent. Due to the ill-treatment and abnormal activities of the respondent, the 1st petitioner left the respondent and living separately with her children from the year 2005. Thereafter, she filed I.D.O.P.No.7 of 2008 before the Principal District Court, Vellore and obtained divorce. Since the respondent neglected to maintain the petitioners, they have filed a petition u/s 125(1)(2) of Cr.P.C. in F.C.M.C.No.7 of 2014 on the file of learned Family Court, Vellore seeking to direct the respondent to pay a sum of Rs.7,000/- per month to the 1st petitioner and to the minor children as maintenance. After adjudication, the Trial Court dismissed the petition vide impugned order



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dated 11.12.2020. Aggrieved by the same, the present revision is filed by the petitioners.

3. The learned counsel appearing for the petitioners submitted that, though the 1st petitioner performed second marriage with another person and the 2nd petitioner has become major, however, the respondent is liable to pay the monthly maintenance to the 3rd petitioner, which was rejected by the trial court and the same is wholly unsustainable. Accordingly, she prays for appropriate orders.

4. The learned counsel appearing for the respondent submitted that the 1st petitioner performed second marriage with another person and the 2nd petitioner has become major. He also submitted that the 3rd petitioner was under the custody of the respondent till 2022 and thereafter, the 3rd petitioner joined with the 1st petitioner. Hence, he submitted that considering the above facts, the trial court had dismissed the maintenance case filed by the petitioners, which does not require any interference. Accordingly, he prays for dismissal of the revision.



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5. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent and also perused the materials available on record.

6. Admittedly, the relationship between the petitioners and the respondent is not in dispute and so also the second marriage of the 1st petitioner with another person. It is borne from the entire records including the impugned order that both the minor children were maintained by the 1st petitioner till 2012 and thereafter, the respondent got the custody of the minor children by way of GWOP in the year 2012. Thereafter, after attaining majority in the year 2022, the 3rd petitioner joined with the 1st petitioner.

7. In view of the fact that the 1st petitioner got second marriage, she is not entitled to receive any maintenance at the hands of the respondent and since the 2nd petitioner attained majority in the year 2020, he is also not entitled to receive any maintenance at the hands of the respondent. However, from 10.01.2008 to 23.10.2012, the 3rd petitioner was under the custody of the 1st petitioner. Therefore, between the said



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period, the respondent is ought to pay maintenance to the 3rd petitioner.

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8. In view of the above, the respondent is directed to pay maintenance from 10.01.2008 to 23.10.2012 at the rate of Rs.3,000/- per month to the 3rd petitioner, within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. Accordingly, this Criminal Revision Case is disposed of in respect of 3rd petitioner, however, this Criminal Case is dismissed in respect of the petitioners 1 and 2.

24.04.2024

Index : Yes / No
Speaking order / Non-speaking order
NCC : Yes / No
sp

To

The Family Court, Vellore.



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M.DHANDAPANI, J.

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