



Crl.R.C.No.238 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.04.2024

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

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1.Saroja

2.Minor Kalaiaarasai

Represented by her mother and
next friend the 1st petitioner

...Petitioners

Vs.

Rajagopal

...Respondent

PRAYER: Criminal Revision case filed under Section 397 r/w Section 401 of Code of Criminal Procedure to call for the records pertaining to the order of partly allowing the maintenance application in M.C.No.21 of 2018 dated 02.12.2019 passed by the learned Family Judge at Dharmapuri and set aside the same.

For Petitioners : Mr.B.Gopalakrishnan

For Respondent : No Appearance

ORDER

This Criminal Revision case has been filed seeking to the order passed in M.C.No.21 of 2018 dated 02.12.2019 passed by the learned Family Judge



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at Dharmapuri and set aside the same.

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2. The case of the petitioners is that the marriage between the first petitioner/wife and the respondent / husband was solemnized on 06.07.1998. Due to some misunderstanding, the petitioners filed a maintenance petition before the Family Court, Dharmapuri in M.C.No.21 of 2018 seeking maintenance in a sum of Rs.25,000/- per month. The trial Court after adjudication partly allowed the said petition granting a sum of Rs.7,000/- per month to the second petitioner/daughter of the first petitioner alone. Aggrieved over the same, the petitioners are in this Criminal Revision petition.

3. Learned counsel for the petitioners submit that the learned Judge erred in awarding maintenance only to the second petitioner on the ground that the first petitioner was earning a sum of Rs.100/- to Rs.150/- per day as a President of Magalir Sangam. Even assuming the first petitioner is earning, the said earnings as stated by the learned trial Judge would not meet out her day to day expenses to maintain herself and her child. As it is the duty of the



husband to maintain his wife and children and as the respondent is well efficient to maintain them, the learned counsel prays this Court to set aside the order passed by the trial Court and also to award maintenance to the first petitioner as well.

4. Though the name of the respondent is printed in the cause list, no one appeared on his behalf. Considering the period of pendency of this petition, the same is disposed of based on the materials available on record.

5. There is no dispute about the marriage between the first petitioner and her husband. The respondent is the husband of the first petitioner and the second petitioner is the child of the first petitioner. It is to be pointed out that it is the duty of the husband to maintain his wife and children and the comforts, which were available to the spouse and the children 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 children. As no maintenance amount has been awarded to the first petitioner, this Court is inclined to fix a



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sum of Rs.5,000/- per month to be payable by the respondent to the first petitioner.

6. Accordingly, the order dated 02.12.2019 passed in M.C.No.21 of 2018 is set aside and this Criminal Revision Petition is allowed in the following terms:

(i) The respondent is directed to pay a sum of Rs.5,000/- as arrears of maintenance amount per month to the first petitioner from the date of the order passed by the trial Court in M.C.No.21 of 2018 within a period of eight (8) weeks from the date of receipt of a copy of this order and shall also continue to pay the said amount on or before 7th of every English Calendar month.

(ii) It is made clear that the order passed by the trial Court insofar as the second petitioner is concerned shall not stand altered until the second petitioner gets married.

02.04.2024

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



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To

WEB COM The Family Court,
Dharmapuri



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M.DHANDAPANI, J.

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