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Crl.R.C.No.637 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.04.2024

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

Crl.R.C.No.637 of 2022
and
Crl.M.P.No.6671 of 2022

A.Senthilkumar

...Petitioner

Vs.

1.Minor Dharshini @ Balaselvi

2.Minor Elavazhagi

...Respondents

(Both the minors are
represented by their Mother
and Natural Guardian
Mrs.Kalai Selvi)

PRAYER: Criminal Revision case filed under Section 397 r/w Section 401
of Code of Criminal Procedure to set aside the order of the learned Family
Court at Perambalur passed in Maintenance Case in M.C.No.23 of 2020
dated 17.03.2022.

For Petitioner : Mr.G.Ilamurugu



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ORDER

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This Criminal revision petition has been filed to set aside the order of the learned Family Court at Perambalur passed in Maintenance Case in M.C.No.23 of 2020 dated 17.03.2022.

2. The case of the petitioner is that, the marriage between the petitioner/husband and the mother of the respondents namely Kalai Selvi was solemnized on 09.03.2008 as per the Hindu rites and customs and out of their wedlock, they were blessed with two children. However, due to some difference of opinion, the petitioner and the said Kalai Selvi got separated and the petitioner filed a petition seeking divorce in H.M.O.P.No.165 of 2017 on the file of Sub-Court, Perambalur which got transferred on the file of learned Family court, Perambalur and the same was re-numbered as O.P.No.62 of 2020 which is still pending. Thereafter, the wife of the petitioner filed a complaint before the Social Welfare Officer under Domestic Violence Act, 2005 in DV Case No.3 of 2018 on the file of Additional Mahila Court, Perambalur and also filed a maintenance case under Section 125 of Cr.P.C. in MC.No.2 of 2019 on the file of the Chief Judicial



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Magistrate, Perambalur, which got transferred and renumbered as M.C.No.23 of 2020 on the file of Family Court, Perambalur seeking maintenance in a sum of Rs.15,000/- per month to the respondents. After adjudication, the trial Court awarded a sum of Rs.4,000/- to each respondents. Aggrieved with the said order, the petitioner/husband has filed the present revision.

3. Learned counsel for the petitioner submitted the maintenance awarded by the trial court in favour of the respondent/wife is highly excessive. Further, the petitioner is a real estate broker and also working as an agent of a newspaper publication, who is receiving only a meagre amount as salary per month and it is pertinent to note that, both the children are under the care and custody of the said Kalai Selvi and the said Kalai Selvi is employed as a Teacher in the Government Middle School who is drawing a salary of Rs.38,862/-. When the wife of the petitioner is well efficient to maintain herself and the children, filing a maintenance petition u/s.125 of Cr.P.C. is not sustainable. The trial Court without considering the said facts, directed the petitioner to pay a maintenance of Rs.8,000/- per month to the



each respondents which is wholly unsustainable. Accordingly, he prayed for appropriate orders.

4. This Court gave its anxious consideration on the submission made by the learned counsel for the petitioner and perused the materials placed on record.

5. There is no dispute about the marriage between the petitioner and the said Kalai Selvi. The said Kalai Selvi is the wife and out of their wedlock, they were blessed with two children. It is the claim of the petitioner that the said Kalai Selvi is a Teacher who is earning a sum of Rs.38,862/-, who was examined as P.W.1 before the trial Court and has deposed before the trial Court that she is earning a sum of Rs.30,000/- per month. In such a backdrop, the comforts, which were available to the spouse and children should not be lost due to the friction between the warring parties and only to that end, Section 125 Cr.P.C. was brought into the statute. In view of the aforesaid deposition made by the said Kalai Selvi, the trial Court has granted maintenance to the respondents which does not warrant any interference.



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6. In view of the above, this Court is of the view that, by considering all the oral and documentary evidences, the trial court has awarded just and reasonable maintenance amount in favour of the respective respondents/children, which cannot be interfered with.

7. Accordingly, this Criminal Revision Case stands dismissed and the order of the learned Family Court, Perambalur dated 17.03.2022 made in M.C.No.23 of 2020 is confirmed. Consequently, the connected miscellaneous petition is closed.

02.04.2024

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

To
Family Court at Perambalur

M.DHANDAPANI, J.



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