



Crl.RC.No.1086 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.04.2024

CORAM:

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

Crl.RC.No.1086 of 2023

Jayanthi

...Petitioner

Vs.

G.Murugan

...Respondent

Petition filed under Section 397 r/w 401 of Code of Criminal Procedure as against the order dated 23.09.2022 made in CMP.No.51 of 2020 in M.C.No.28 of 2009 by the Hon'ble Family Judge, Salem dismissing the petition filed under Section 127 of Cr.P.C..

For Petitioner : Ms.R.Anisha Rani
for Mr.A.Thiyagarajan

For Respondent : Mr.S.Mayilnathan

ORDER

This Criminal Revision case has been filed to set aside the order of the Family Judge, Salem made in CMP.No.51/2020 in M.C.No.28/2009 dated 23.09.2022. The learned Judge has ordered maintenance of Rs.10,000/- per month to the wife, the respondent herein.



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2. The case of the petitioner is that, the marriage between the petitioner/wife and the respondent/husband was solemnized on 18.02.1994 and out of their wedlock, they were blessed with one female and one male child. While so, as the respondent failed to take care of the petitioner and the children, the petitioner along with her children filed a maintenance case under Section 125 of Cr.P.C. in MC.No.28 of 2009 on the file of the Family Court, Salem, claiming monthly maintenance amount of Rs.3,000/- each. After adjudication, the trial Court, vide order dated 08.06.2013, awarded a sum of Rs.2,000/- per month to each of the petitioners therein. Aggrieved with the said order, the petitioner filed a petition under Section 127 Cr.P.C. seeking enhancement of the monthly maintenance awarded in her favour. However, the trial court, vide impugned order had mechanically dismissed the same. Challenging the said order of dismissal, the petitioner has come up with the present revision.

3. Learned counsel for the petitioner submitted that, the trial court had awarded a monthly maintenance of Rs.2,000/- in favour of the petitioner which is very meagre and the same is not sufficient to meet her day to day needs. Further, the respondent is working as a primary school Headmaster



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and is earning about Rs.35,000/- per month. While so, paying a maintenance of Rs.10,000/- per month in favour of the petitioner will not cause any prejudice to the respondent. Accordingly, he prayed for appropriate enhancement in favour of the petitioner/wife.

4. Learned counsel for the respondent submitted that, the trial court upon careful perusal of the documents placed before it had dismissed the enhancement petition filed by the petitioner and the same does not require any further modification. Accordingly, he prayed for dismissal of this petition.

5. Heard learned counsel on either side and perused the material documents placed on record.

6. There is no dispute about the marriage between the petitioner and the respondent. The respondent is the husband and out of their wedlock, they were blessed with two children. 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.

7. In the case on hand, the trial court vide order dated 08.06.2013 made in M.C.No.28 of 2009 had awarded a monthly maintenance of Rs.2,000/- per month in favour of the petitioner/wife. When the husband is earning a sum of about Rs.35,000/-, which has not been disputed, it is the duty of the husband to properly maintain his wife and children and they need the requisite amount to meet their day to day needs. Further, when the petitioner claims that the salary of the respondent is Rs.35,000/- per month, which was not disputed by the respondent, ordering a maintenance of Rs.2,000/- per month in favour of the wife is very meagre. Further, the trial court, without assigning any valid reason, had mechanically dismissed the petition filed by the petitioner/wife under Section 127 Cr.P.C. for enhancement of compensation, which is wholly unsustainable.

8. For the reasons aforesaid, considering the case and also the earnings of the husband, this Court fixes a sum of Rs.6,000/- per month as maintenance in favour of the petitioner/wife payable by the respondent/



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husband as under :-

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(i) the respondent is directed to pay a maintenance amount of Rs.6,000/- per month to the petitioner from the date of filing the enhancement petition and continue to pay the said amount. Further, the said amount shall be paid on or before the 5th day of every English Calendar month;

(ii) the respondent is directed to pay the arrears of maintenance amount, less than the amount if any already paid, to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

9. With the above terms, the Criminal Revision Case stands **allowed.**

22.04.2024

skt

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

To

1. The Family Judge, Salem.
2. The Public Prosecutor
High Court, Madras.

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M.DHANDAPANI, J.

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