



Crl.RC.No.1172 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

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1. R.Sindhuja

2. Minor R.Devtharshan

Minor petitioner rep. by Guardian/Next Friend
Mother Sindhuja

...Petitioners

Vs.

Sakthivel
...Respondent

Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. to enhance the maintenance awarded in MC.No.5 of 2019 dated 01.08.2023 by the learned Judicial Magistrate No.1, Mettur from Rs.14,500/- to Rs.25,000/- by allowing this revision petition.

For Petitioners : Mrs.R.Kamalarani

For Respondent : Mr.R.Aranganathan

ORDER

This Criminal Revision Case has been filed seeking enhancement of the maintenance ordered in MC.No.5 of 2019 dated 01.08.2023 on the



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file of the Judicial Magistrate No.1, Mettur.

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2. The case of the petitioners is that, the marriage between the 1st petitioner/wife and the respondent/husband was solemnised on 04.06.2015 and out of their wedlock, the 2nd petitioner was born. However, the respondent and his family members continuously harassed the 1st petitioner and the respondent is the one who sent the petitioners to the house of the 1st petitioner and he also refused to maintain the petitioners. Thereby, the petitioners filed a maintenance case under Section 125 of Cr.P.C. in MC.No.5 of 2019 claiming a monthly maintenance of Rs.10,000/- each and a sum of Rs.5,000/- per month towards educational and other expenses of the 2nd petitioner. The trial court, after adjudication, vide order dated 01.08.2023 allowed the said petition in part and directed the respondent/husband to pay a monthly maintenance of Rs.6,000/- each to the petitioners and ordered for a sum of Rs.2,500/- towards education expenses of the 2nd petitioner. Aggrieved by the same, the petitioners have come up with this revision seeking enhancement of the maintenance awarded by the trial court.



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3. Learned counsel appearing for the revision petitioners submitted that, the 1st petitioner along with her minor child, the 2nd petitioner herein are living with her age old parents, who are not having sufficient means of income to meet out their own livelihood. Whereas, the respondent is employed as Assistant Professor at Government College of Technology, Coimbatore and is earning about Rs.65,000/- per month and paying a monthly maintenance of Rs.25,000/- in favour of the petitioners will not cause huge damage to the respondent. While so, the trial court, without considering any of the said facts had ordered for a maintenance of Rs.14,500/- per month in favour of the petitioners, which is not sustainable. Accordingly, he prayed for appropriate orders.

4. Per contra, learned counsel appearing for the respondent submitted that it is the 1st petitioner who refused to live with the respondent and his parents and she forcibly took the child along with her. Further, the respondent is earning only a sum of Rs.60,000/- per month using which, he has to take care of himself, his age old parents and the



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unmarried sister. Thereby, the court below, on proper appreciation of the above said facts as well as the oral and documentary materials has ordered for a monthly maintenance of Rs.14,500/- in favour of the petitioners, which is already on the higher side and the same does not require any further enhancement, since the 1st petitioner is also working as a Teacher and earning sufficiently to maintain herself. Accordingly, he prayed for dismissal of this revision.

5. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

6. There is no dispute about the marriage between the 1st petitioner and the respondent. The respondent is the husband and out of their wedlock, the 2nd petitioner was born. 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 01.08.2023 made in M.C.No.5 of 2019 awarded a monthly maintenance of Rs.6,000/- per month in favour of each of the petitioners. Further, when the petitioners claim that the salary of the respondent is Rs.60,000/- per month, which was not disputed by the respondent, 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. While so, ordering a maintenance of Rs.6,000/- per month in favour of each of the petitioners is very meagre. Further, a sum of Rs.2,500/- per month has been ordered by the trial court towards the educational expenses of the 2nd petitioner, which is also on the lower side and the same has to be enhanced.

8. Further, though it is the major contention of the respondent/ husband that the 1st petitioner is also working as a Teacher and earning sufficiently to maintain herself, however, no documentary or oral evidence has been produced by the respondent either before the trial court or before this Court to substantiate the said claim. Hence, the said claim of



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the respondent cannot be acceded to and the same is rejected.

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9. For the reasons aforesaid, considering the earnings of the respondent/husband as also the undertaking given by the learned counsel for the petitioners that the 1st petitioner/wife is ready to not press the Domestic violence case filed by her, this Court fixes a sum of Rs.10,000/- per month as maintenance in favour of each of the petitioners payable by the respondent/husband and accordingly, the order of the trial court is modified as under :-

(i) the respondent is directed to pay a maintenance amount of Rs.10,000/- per month to each of the petitioners and shall pay a sum of Rs.50,000/- per annum towards education expenses of the 2nd petitioner from the date of this order ie., today and the respondent shall continue to pay the said amount on or before the 7th 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 petitioners within a period of four weeks from the date of receipt of a copy of this order.



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10. With the above observations and directions, this Criminal
Revision stands allowed.

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skt

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

To

The Judicial Magistrate No.1,
Mettur.



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M.DHANDAPANI, J.

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