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Crl.R.C.No.921 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

CORAM:

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

Crl.R.C.No.921 of 2024
and Crl.M.P.No.7855 of 2024

E.Seenuvasan

.....Petitioner

Vs.

S.Egathammal

...Respondent

Prayer : Criminal Revision Case has been filed under Section 397 and 407 of Cr.P.C., to call for the records and to set aside the order passed in C.M.P.No.2796 of 2022 in M.C.No.1 of 2011 dated 10.05.2024 on the file of Judicial Magistrate Court-1.

For Petitioner : Mr.S.Muthaiah

For Respondent : Mr.R.Veeramani

ORDER

This Criminal Revision Case has been filed to set aside the judgment and decree of the learned Judicial Magistrate Court-1 in M.C.No.1 of 2011 dated 10.05.2024.



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2. The case of the petitioner is that the petitioner is the husband of the respondent and the marriage between the petitioner and respondent was solemnized on 30.04.1986. Out of the said wedlock, two male and one female child were born and the girl child died at the age of two. There was a matrimonial dispute between them and thereby, the respondent/wife filed a maintenance case in M.C.No. 1 of 2011 and the same was allowed by directing the petitioner to pay a sum of Rs.1,200/- per month to the respondent before 5th day of every month and also awarded cost of Rs.1,500/- towards the cost of proceedings.

ii) The respondent had filed a petition in C.M.P.No.3429 of 2011 seeking to enforce and to realise the fruits of the order in M.C.No. 1 of 2011 and the same was dismissed as withdrawn since the petitioner had paid the maintenance amount of Rs.18,000/-. In the meantime, the petitioner had preferred criminal revision case before this Court in Crl.R.C.No.674 of 2012. A conditional interim stay was granted directing the petitioner to deposit a sum of Rs.15,000/- into the credit of M.C.No.1 of 2011 within a period of four weeks. This Conditional order



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was not been complied with and the said Criminal Revision case also came to be dismissed.

(iii). The respondent filed a petition in Crl.M.P.No.529 of 2016 to direct the petitioner to pay a sum of Rs.57,600/- being the arrears of maintenance of Rs.1,200/- per month for the period 22.09.2011 to 21.11.2015 for 48 months and the same was allowed on 02.06.2011. The petitioner preferred an appeal in Crl.Revision Petition No.20 of 2016 on the file of the Hon'ble I Additional District Judge, Tindivanam against the said order and the same was dismissed. Further, the petitioner approached this Court vide Crl.O.P.No.18059 of 2017 under Section 482 of Cr.P.C. A conditional interim stay was granted in Crl.M.P.No.11011 of 2017 directing the petitioner to deposit 50% of arrear to the credit of M.C.No.1 of 2011 and also to pay the provisional maintenance of Rs.1,000/- per month to the respondent until the disposal of the Crl.O.P.No.18059 of 2017 before 5th of every month. Accordingly, the petitioner deposited 50% of arrear amount to the credit of M.C.No.1 of



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2011 on 06.09.2017 and also paid Rs.1,000/- to the respondent for three months. Thereafter, the said Crl.O.P.No.18059 of 2017 was taken up for final hearing on 19.08.2021 and dismissed the above petition by directing the petitioner to pay arrears of maintenance for the period of 22.09.2011 to 21.05.2016 at Rs.1,200/- per month to the respondent. However, the petitioner failed to comply with the said order and therefore, the respondent filed a maintenance petition in M.C.No.1 of 2011 and the learned Judge vide order dated 02.06.2011 allowed the petition by directing the petitioner to pay a sum of Rs.1,54,200/- being the arrears of maintenance at a rate of Rs.1,200/- per month for a period of 123 months, failing which, to issue warrant as against the petitioner to enforce the order of maintenance for unpaid arrears.

(iv). Thereafter, the respondent has filed C.M.P.No.2796 of 2022 to execute the order made in M.C.No.1 of 2011 for the default period of payment of maintenance from 22.09.2011 to 21.05.2022 (123 months) for a total arrear sum of Rs.1,54,200/- to be paid by the petitioner and the learned judge had directed the petitioner to pay a sum



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of Rs.68,600/- for default period which is unpaid arrears amount to the respondent. Aggrieved by the said order, the petitioner/husband has filed the present Criminal Revision Case to set aside the order dated 10.05.2024 in C.M.P.No.2796 of 2022 in M.C.No.1 of 2011.

3. Learned counsel for the revision petitioner/husband would submit that the petitioner is a retired person and he is not able to maintain himself and he could not be able to pay the maintenance amount to the respondent. He further submits that the petitioner had settled properties in favour of his son by executing a settlement deed vide Doc.No.1158/2010 dated 03.06.2010 to an extent of 5.24 acres and the respondent had sufficient means to maintain herself and she has also purchased the agricultural lands at Tindivanam to an extent of 4 acres. Moreover, the petitioner has paid 50% of the total arrears amount to the respondent. Therefore, he prays to set aside the maintenance amount awarded by the Trial Court.

4. Per contra, learned counsel appearing for the respondent

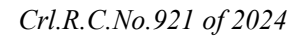


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would submit that the Trial Court has awarded a meager amount to the tune of of Rs.1,200/-p.m. to the respondent, whereas, the petitioner receiving a pension amount of more than a sum of Rs.20,000/- every month, in which, he can pay the maintenance amount to the respondent as awarded by the Trial Court.

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

6. A careful perusal of the order passed by the court below reveals that the court below has taken into consideration the documentary evidence as also the deposition of the witnesses examined by the respondent and had come to the conclusion that only to deny the benefit of maintenance to the respondent, certain acts have been perpetrated by the revision petitioner. When the basis of such a finding is the deposition of the respondent, which has been rightly appreciated by the court below while awarding maintenance, the same does not



7. Further, it has to be pointed out that though the respondent/wife has sufficient means and she is able to manage herself, it is the duty of the husband to maintain his wife and rightly appreciating the above, maintenance has been awarded by considering the means of the revision petitioner. The maintenance awarded is just and reasonable and the same does not require any interference.

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Police is directed to take appropriate action under Section 125 of Cr.P.C.

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9. With the above directions, the Criminal Revision case is dismissed. Consequently connected miscellaneous petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
NCC : Yes/No

To

The Judicial Magistrate Court-1

Tindivanam



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M.DHANDAPANI, J.

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