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CrI.R.C.No.1038 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.R.C.No.1038 of 2023

Roja,
W/o.Sivakolunthu

... Petitioner

Vs.

Sivakolunthu,
S/o.Saminathan

... Respondent

PRAYER : Criminal Revision filed under Section 397 r/w Section 401 of the code of Criminal Procedure, 1973 to set aside the order dated 28.02.2023 passed in C.M.P.No.32 of 2018 in C.M.P.No.43 of 2016 in M.C.No.17 of 2010 on the file of the Family Court, Villupuram and enhance the maintenance amount to the petitioner.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : Mr.Thirumavalavan

ORDER

The present criminal revision has been filed to set aside the order dated 28.02.2023, passed by the Family Court, Villupuram, in C.M.P.No.32 of 2018 in C.M.P.No.43 of 2016 in M.C.No.17 of 2010.



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2. The petitioner is the wife of the respondent and through their wedlock, they were blessed with a girl, namely, Sabitha. Subsequently, there was a matrimonial dispute between them and the respondent has failed to take care of them. Therefore, the petitioner has filed a maintenance case in M.C.No.17 of 2010 before the learned Family Judge, Villupuram. The learned Judge, after hearing both sides, disposed of the petition on 29.07.2012, directing the respondent to pay a sum of Rs.500/- to the petitioner and a further sum of Rs.1,000/- to his child. Subsequently, the petitioner filed a petition under Section 127 of Cr.P.C in C.M.P.No.32 of 2018 in C.M.P.No.43 of 2016 in M.C.No.17 of 2010 on the file of the Family Court, Villupuram seeking enhancement. The trial Court, ordered a sum of Rs.1,000/- to the petitioner as monthly maintenance, which is to be paid by the respondent on or before 5th of English calendar month. However, insofar as their child is concerned, the petition was dismissed as against her for the reason that she attained majority. Challenging the said order, the petitioner filed the present revision petition.



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3. The learned counsel appearing for the petitioner submitted that though the respondent has married the petitioner, he has developed illicit relationship with one Vanitha and married her and they have two children and the respondent is not taking care of the petitioner and her child. He further submitted that the respondent is a Government employee and working as Foreman in Tamil Nadu Electricity Board and earning more than Rs.40,000/- per month, however the Court below ordered a very meager amount of Rs.1,000/- to the petitioner, which is not justifiable. Hence, she filed the present petition for enhancement.

4. The learned counsel appearing for the respondent submitted that the maintenance amount awarded by the trial Court is just and reasonable, which requires no interference. However, the respondent is ready and willing to pay a sum of Rs.4,000/- as monthly maintenance to the petitioner, however refused to pay maintenance to his child, since the petition as against her was dismissed.

5. This Court gave its anxious consideration to the submissions



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advanced by the learned counsel appearing on either side and perused the materials available on record.

6. It is seen from the records that due to matrimonial dispute, the petitioner and the respondent are living separately and the petitioner has filed a petition for maintenance in M.C.No.17 of 2010 before the learned Family Judge, Villupuram and the trial Court has awarded monthly maintenance of Rs.500/- to the petitioner and a further sum of Rs.1,000/- to her child. Subsequently, the petitioner filed a petition under Section 127 of Cr.P.C in C.M.P.No.32 of 2018 in C.M.P.No.43 of 2016 in M.C.No.17 of 2010 on the file of the Family Court, Villupuram seeking enhancement. The trial Court, ordered a sum of Rs.1,000/- to the petitioner as monthly maintenance, which is to be paid by the respondent on or before 5th of English calendar month. However, insofar as the child is concerned, the petition was dismissed as against her for the reason that she attained majority.

7. It is the contention of the petitioner that the petitioner has no



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source of income to maintain herself and her child. Though the respondent has raised an objection stating that the petitioner is employed, no material or evidence has been produced before the trial Court or before this Court to substantiate the same. Further, the respondent has performed second marriage with one Vanitha when the first marriage with the petitioner herein was in subsistence. Hence, considering the fact that the respondent, who is a Government employee, working as Foreman and earning a sum of Rs.40,000/- per month and that the respondent is now ready to pay a sum of Rs.4,000/- to the petitioner as monthly maintenance, this Court is inclined to modify the order dated 28.02.2023 made in C.M.P.No.32 of 2018 in C.M.P.No.43 of 2016 in M.C.No.17 of 2010 with the following directions:

(i) The order dated 28.02.2023 passed by the learned Family Judge, Villupuram in C.M.P.No.32 of 2018 in C.M.P.No.43 of 2016 in M.C.No.17 of 2010 is set aside.

(ii) The respondent is directed to pay a sum of Rs.4,000/- to the petitioner as monthly maintenance on or before 7th of every English calender month and also to deposit the arrears of maintenance to the petitioners from the date of main petition till date within a period of



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two weeks from the date of receipt of a copy of this order.

8. Accordingly, the Criminal Revision is allowed with the above directions.

17.04.2024

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

vji

To

The Family Court,
Villupuram.



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M.DHANDAPANI, J.

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