



CrI.RC.No.1185 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

CORAM:

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

CrI.RC.No.1185 of 2024

Selvam

...Petitioner

Vs.

Subash Kanna

...Respondent

Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C, to call for the entire records in connection with the MC.No.19 of 2021 on the file of the learned Judicial Magistrate, No.I, Attur, Salem District and set the order dated 08.03.2024.

For Petitioner : Mr.E.Kannadasan

For Respondent : Ms.D.Jeevitha

ORDER

This Criminal revision case has been filed seeking quashment of the order passed in MC.No.19 of 2021 dated 08.03.2024 on the file of the Judicial Magistrate, No.I, Attur, Salem District.



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2. The case of the petitioner is that, the marriage between the petitioner and the respondent's mother was solemnised on 15.05.1989 and out of the wedlock, the respondent and his younger brother were born. Since, the respondent/son failed to maintain the petitioner/father, the petitioner filed a maintenance case under Section 125 of Cr.P.C. in MC.No.19 of 2021, claiming a monthly maintenance of Rs.25,000/-. After adjudication, the trial court, vide order dated 28.03.2024 dismissed the said petition and refused to order for maintenance in favour of the petitioner. Aggrieved by the same, the petitioner has come up with this revision.

3. Learned counsel for the petitioner submitted that, it is the petitioner who spent a huge amount towards the educational expenses of the respondent and though the respondent is working in a private company and earning a sum of Rs.50,000/- per month and also earning a sum of Rs.2,00,000/- per annum from the agricultural lands given by the petitioner, the respondent miserably failed to perform his duty as a son and refused to take care of the petitioner. Thereby, the petitioner filed a maintenance case



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in MC.No.19 of 2021 before the trial court. However, without considering any of the said facts, the trial court had dismissed the petitioner's maintenance petition, which is wholly unsustainable. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned counsel appearing for the respondent submitted that, when the respondent's mother was carrying the respondent's younger brother, the petitioner developed illicit relationship with one Jayalakshmi and when the same was questioned by his mother, the petitioner thrown out the respondent's mother from the matrimonial house and it is his mother, who took care of the respondent and his mentally retarded younger brother with great hardship. She further submitted that, the petitioner owns various lands and apart from that, he also filed a suit against one Venkatachalam in O.S.No.153/2014 and received a sum of Rs.5,00,000/- and he is living a lavish life and is capable of maintaining himself and the present maintenance case has been filed by the petitioner only to harass the respondent and his family members and the trial court after careful consideration of the said facts had dismissed the maintenance case filed by



the petitioner and the same does not warrants interference of this Court.

Accordingly, she prayed for dismissal of this revision.

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

6. A perusal of the material placed on record reveals that, the petitioner and the respondent's mother are living separately for the past 28 years and the respondent and his younger brother are under the care and custody of their mother. While so, when the petitioner claim that he spend huge money towards the educational expenses of the respondent, in order to substantiate the said claim, no oral or documentary evidence has been produced by the petitioner either before the trial court or before this court and in the absence of any material, the said contention of the petitioner cannot be accepted.

7. Further, it is also evident from the cross examination of the petitioner himself that, he owns various properties including the properties that stood in the name of his deceased mother, from which it can be concluded that the petitioner is capable of maintaining himself. Further, it is



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proved before the trial court that, the respondent is earning a sum of Rs.44,800/- per month and it is pertinent to note that, the respondent has to take care of himself, his mother and younger brother using his salary. The trial court, after considering all the above said facts, had arrived at a conclusion that the petitioner is capable of maintaining himself and thereby dismissed the maintenance petition filed by him, and this Court does not finds any fault with the said findings arrived at by the trial court and thereby, is not inclined to interfere with the same.

8. For the reasons aforesated, this Criminal Revision case stands dismissed.

12.07.2024

skt

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

To

The Judicial Magistrate, No.I,
Attur, Salem District.

M.DHANDAPANI, J.

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