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Crl.R.C.No.1826 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.No.1826 of 2023 and
Crl.M.P.No.17236 of 2023**

V.Suresh

... Petitioner

Vs.

1. Kayalvizhi

2. Minor Abinaya Suresh
D/o.Suresh
Now attained majority
D.O.B: 20.09.2004

3. Minor Kevin Karthick

... Respondents

PRAYER : Criminal Revision filed under Section 397 r/w Section 401 of the code of Criminal Procedure, 1973 to set aside the order dated 14.09.2023 made in M.C.No.5 of 2021 on the file of the Family Court, Dharmapuri.

For Petitioners : Mr.S.Sathia Chandran



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For Respondent : Not ready notice

ORDER

The present criminal revision has been filed to set aside the order dated 14.09.2023, passed by the learned Judge, Family Court, Dharmapuri, in M.C.No.05 of 2021.

2. The revision petitioner is the husband and the respondents are the wife and sons. The marriage between the petitioner / husband and the first respondent / wife was solemnized on 27.06.2004. Out of their wedlock, two children were born. Due to matrimonial dispute and misunderstanding between them, the petitioner / husband has not taken care of the respondents and not come to the house. In the year 2013, the first respondent / wife got job as a Teacher at Kadalur District, Chepakkam Government Adi Dravidar School. For the past ten years, the first respondent is only taking care of the two children and till date, she has spent Rs.4 Lakhs for educational expenses of the respondents 2 and 3. At the time of filing of the



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maintenance petition, the second respondent was studying 11th Standard and third petitioner was studying 5th Standard. The first respondent / wife is running her life with great difficulty, therefore she filed a petition under Section 125 of Cr.P.C in M.C.No.05 of 2021 seeking maintenance for the respondents 2 and 3 on the file of the Family Court, Dharmapuri. The learned Judge, after hearing both sides, allowed the petition in part by directing the petitioner / husband to pay a sum of Rs.15,000/- per month to the second respondent alone, since she is the biological daughter of the petitioner from the date of petition until she attains majority on or before 5th of every English calendar month, as monthly maintenance. Apart from this, the petitioner is also directed to pay a sum of Rs.2,00,000/- per annum for educational and other expenses of the second respondent and also to pay the arrears of maintenance from 16.02.2021 to 14.09.2023. The third respondent is not entitled to get maintenance from the petitioner. Challenging the said order, the petitioner / husband filed the present revision petition.

3. The learned counsel for the petitioner submitted that the second



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respondent has attained majority therefore, there is no necessity for the petitioner to pay monthly maintenance to the second respondent, however he would pay the arrears of maintenance in three instalments as ordered by the Court below. Hence, this Court may permit the petitioner to file a petition under Section 127 (1) of Cr.P.C before the Court below with regard to the educational expenses of the second respondent.

4. Heard the learned counsel for the petitioner.

5. It is seen from the records that the first respondent / wife is working as a Teacher at Kadalur District, Chepakkam Government Adi Dravidar School and maintaining herself and the respondents 2 and 3. Further, the first respondent is not claiming any maintenance for herself. Moreover, according to the evidence of Scientific Officer and DNA report, the third respondent was not born to the petitioner and the second petitioner was only born to the petitioner. Hence, the Court below rightly appreciating the above fact, awarded a sum of Rs.15,000/- per month to the second



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respondent alone from the date of petition until she attains majority. Apart from this, the petitioner is also directed to pay a sum of Rs.2,00,000/- per annum with regard to educational and other expenses of the second respondent. The arrears of maintenance amount from 16.02.2021 to 14.09.2023 is to be paid within three months from the date of receipt of the order. Further, it has to be pointed out here that since the second respondent has attained majority, there is no necessity for the petitioner to pay monthly maintenance to the second respondent.

6. In view of the limited request made by the learned counsel for the petitioner, this Court, without interfering with the order impugned herein, is inclined to pass the following orders:

(i) The petitioner is directed to pay the entire arrears of maintenance in three instalments as ordered by the Court below within a period of three months from the date of receipt of a copy of this order.

(ii) After depositing the entire arrears of maintenance amount, the petitioner is at liberty to file a petition in terms of Section 127 (1) of Cr.P.C before the



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Court below with regard to education expenses of the second respondent, within a period of two weeks from thereon.

(iii) If any petition is filed by the petitioner, the Court below, after providing an opportunity of being heard to both parties, shall dispose of the same within a period of two months thereafter.

7. Accordingly, the Criminal Revision Case is disposed of.

Consequently, connected miscellaneous petition is closed.

17.04.2024

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

To

The learned Judge,
Family Court,
Dharmapuri.



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M.DHANDAPANI, J.

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