



*Crl.R.C.(MD).Nos.322 and 740 of 2023*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

|               |   |            |
|---------------|---|------------|
| Reserved On   | : | 20.12.2023 |
| Pronounced On | : | 22.02.2024 |

CORAM

**THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

Crl.R.C(MD). Nos.322 and 740 of 2023  
and  
Crl.M.P(MD).Nos.4665 and 10131 of 2023

Crl.R.C.(MD).No.322 of 2023

K.Vinoth

...Petitioner

Vs.

1.K.Shanthi

2.Ranjith Kumar

...Respondents

**PRAYER:** Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for records and set aside the impugned order passed in M.C.No.4 of 2022, on the file of the Chief Judicial Magistrate Court, Karur, order dated 25.01.2023.

For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.P.Senthil



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Crl.R.C.(MD).No.740 of 2023

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K.Shanthi

...Petitioner

Vs.

1.K.Vinoth

2.Ranjith Kumar

...Respondents

**PRAYER:** Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for records and set aside the impugned order passed in M.C.No.4 of 2022, on the file of the Chief Judicial Magistrate Court, Karur, order dated 25.01.2023.

For Petitioner : Mr.P.Senthil

For Respondents : Mr.P.M.Vishnuvarthanan

### **COMMON ORDER**

Petitioner in Crl.R.C.(MD).No.322 of 2023, is the son of the petitioner in Crl.R.C.(MD).No.740 of 2023. The son namely Vinoth is a differently abled person and hence he has filed petition under Section 125 of Cr.P.C., claiming maintenance of Rs.30,000/- from his mother in M.C.No.4 of 2022, on the file of the Chief Judicial Magistrate Court, Karur, dated 25.01.2023.



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2. For the better appreciation of the facts, the revision petitioner in Crl.R.C.(MD).No.322 of 2023 namely “son” is herein after referred as “petitioner” and revision petitioner in Crl.R.C.(MD).No.740 of 2023, namely “mother” is herein after referred as the “respondent”.

3. The petitioner has filed a petition in M.C.No.4 of 2022 under Section 125 of Cr.P.C., with the following allegation against the respondent and his brother namely Ranjith kumar. The said Ranjith Kumar and the petitioner are brothers. The petitioner is a differently abled person from birth. He suffered 80% of disability on his both leg. From his childhood, he has been taken care of by his grandparents only. After the demise of his grandparents, he was under the control of the respondent. After sometime, she deserted the petitioner and left the petitioner alone. She inherited the properties of her parents and earned more than a sum of Rs.15,000/- as a rental income and also she has sufficient amount in the deposit and from that also she is earning Rs.1,00,000/- as interest. But she did not give any amount to the petitioner's maintenance. Even though she obtained the properties from her husband's side and the parents side to the value of Rs.5,00,00,000/- and earned Rs.1,00,000/- per month she refused to give maintenance to her son. On 21.11.2021, the petitioner, his brother Ranjithkumar



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and his sister entered into partition of the properties of his father. The petitioner sold of the property and invested in computer centre and everything was lost. Therefore, he closed the business. Now he is unable to maintain himself. Therefore he claimed maintenance from his mother and his brother.

4. The mother/respondent filed a counter denying the liability. The petitioner filed the suit in O.S.No.153 of 2017 for partition against the brother. In the said suit, 51½ cents valuable land was allotted and he sold the land and deposited the amount in the bank and he also received an amount of Rs.10,00,000/-(Rupees Ten Lakhs) from his Grandfather and from the said amount he received a sum of Rs.20,000/-(Rupees Twenty Thousand) as an interest. He also has a land at Punjaithottapuchi village, valued Rs.15,00,000/-(Rupees Fifteen Lakhs). The petitioner also lavishly spent his money and did not take care of his mother. After the completion of his studies in the Bishop Heber College, she arranged a job in an export company. But he did not continue the job and she denied the allegation that she received the interest amount of Rs. 1,00,000/- and the rental income of Rs.50,000/-. She also denied that the petitioner sustained loss in the computer business. She firmly stated that the petitioner has sufficient income to maintain himself.



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5. To prove the maintenance claim, the petitioner examined himself as P.W.1 and marked Ex.P1 to Ex.P6 and also the respondent examined herself as R.W.1 marked Ex.R1 to Ex.R6. Pending the proceedings, the petitioner filed the petition to remove the second respondent from the claim petition.

6. Considering the evidence and records, the learned trial Judge specifically addressed the issue that the maintenance petition filed against the mother is maintainable under Section 125 of Cr.P.C. The learned trial Judge after considering the financial status of both parties granted a sum of Rs.15,000/- to the petitioner. To seek enhancement of the maintenance, the petitioner filed Crl.R.C.(MD).No.322 of 2023. The respondent filed the revision case in Crl.R.C.(MD).No.740 of 2023 challenging the grant of maintenance order.

7. Since these criminal revision cases are arising out of the same impugned judgment, these cases are taken up for hearing together and disposed of by way of this common order.



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8. The learned counsel for the petitioner in Crl.R.C.(MD).No.322 of 2023 submitted that he is suffering from 80% disability on both legs and he is unable to walk without help of other persons. The mother after birth of the petitioner left him in her parents house. The grandparents of the petitioner alone took him and provided the nourishment to him and the respondent as a mother, did not provide any care. Further, nobody is willing to marry him and hence, his marriage is a mirage. Further, he has incurred huge loss in the computer centre run by him resulting in financial crisis. Therefore, he is unable to maintain himself. The learned trial Judge after holding that the Respondent received sufficient rental income ought to have granted maintenance of Rs.30,000/- as prayed for. Therefore, he seeks for enhancement of maintenance.

9. The learned counsel appearing for the petitioner/mother in Crl.R.C.(MD).No.740 of 2023 submitted that there is a partition relating to the property left by the father of the petitioner and in the partition, sufficient properties were allotted to her son. Hence, there is no necessity to give maintenance to him. She is also suffering from heart disease and diabetes. The same was admitted by the petitioner namely son. In the said circumstances, the learner trial Judge ought



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not to have granted maintenance. The learned counsel for the mother submitted that without any proof to the income derived by his mother, maintenance petition is filed. In the above said situation, the learner trial Judge ought not to have granted maintenance of Rs.15,000/-. The learned counsel for the mother further submitted that the mother is entitled to get maintenance from his son. Further, she is unable to maintain herself as she suffers with diabetes and also heart problem. The learned counsel for the mother further submitted that when the sufficient source of income is not available with the mother, allowing the petition and directing her to pay amount of Rs.15,000/- is not legally valid and She seeks to dismiss the revision filed by her son and pray for allowing her revision case and seeks for dismissal of M.C.No.4 of 2022 by setting aside the impugned order dated 25.01.2023.

10. The learned counsel for the son by way of reply submitted that the mother, who delivered the petitioner with all deformities, is duty bound to maintain her son till her life time. The said object is enumerated under Section 125 Cr.P.C. The mother had never denied the inherited property of the grandfather of the petitioner. The mother is in occupation of the house and she is receiving the rental from the said house. The only dispute is relating to the



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quantum of the rental amount. Further, she also owns vast lands, the same is not disputed by her. Her case is that the petitioner has sold the one of the properties allotted under the partition deed and he is having the liquid cash. The learned counsel for petitioner specifically states that the son started the computer Centre and the same was not profitable. Further, he also submitted that due to 80% disability, nobody is willing to marry him. In the said circumstances, the award of the maintenance of Rs.15,000/- is not adequate one and hence he seeks for enhancement of the maintenance amount granted by the trial court.

11. This Court considered the rival submissions made on either side and perused the materials available on record and the precedents relied upon by them.

12. There is no dispute that the petitioner has suffered 80% disability in both legs. He also had been taken care of by his grandparents and only after their demise, the respondent mother took care of him for sometime and left him. Therefore, he is living in desperation. Due to the said infirmity, nobody is willing to marry him. Further, the petitioner admitted that there is a partition. In the partition, the properties were allotted to him. He sold one of the properties



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and invested in the computer business and the same ended in loss. Hence, he has no sufficient means to maintain himself.

13. Similarly, the mother also admitted that she inherited the property of her father and she is in enjoyment of the said property. There is a house, through the same, she is getting rental income. But her case is that she is suffering from heart disease and also diabetes. Hence, for the medical expenses she has incurred huge expenditure and also she is not in a position to make the maintenance to the petitioner namely her son. Further, she specifically stated that the petitioner has in possession of remaining properties and hence he can sell the said property to maintain himself.

14. The factual circumstances are mother gave birth of a deformed child and hence she is duty-bound to maintain him by providing the adequate means. She cannot blame anyone. In the said circumstances, even though the mother pleaded that she has no sufficient income, but on record, the son established her income of Rs.60,000/- per month as rental income. she also admitted that the rental income is there and also have other properties. In the said circumstances, she has sufficient means to maintain her differently abled son. Since, she begot



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the son with deformity, she is duty-bound to maintain person even by selling the remaining property. The mother is duty-bound to maintain him by providing the adequate means. It is the crying submission of the petitioner that she has not taken care of him. The petitioner was first taken care of by the grandparents. In such a situation, the petitioner namely the mother is duty bound to give adequate maintenance to the son.

15. In view of the above discussions, the learned trial Judge, correctly held that petitioner is entitled to claim maintenance from his mother namely the respondent.

16. Having considered the fact that the mother also suffers from heart disease and diabetes and she also has to maintain herself, this Court is inclined to enhance the maintenance amount of Rs.15,000/- to Rs.20,000/-. Accordingly, Crl.R.C.(MD).No.740 of 2023 is dismissed and Crl.R.C.(MD).No.322 of 2023 is partly allowed in the following terms:

(i)The maintenance order granted by the learned trial Judge in M.C.No.4 of 2022 is enhanced from Rs.15,000/- to Rs.20,000/- and the enhanced amount is



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liable to be paid from the date of the filing of this Criminal Revision case,  
ie., 09.03.2023.

Consequently, connected miscellaneous petitions are closed.

**22.02.2024**

NCC : Yes/No  
Index : Yes/No  
Internet: Yes/No  
*sbm*

To

The Learned Chief Judicial Magistrate,  
Karur.



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**K.K.RAMAKRISHNAN, J.**

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