



Crl.R.C.(MD).No.367 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 17.04.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.367 of 2023
and
Crl.M.P(MD).No.5375 of 2023

Gurusekar

... Petitioner

Vs.

1. Reena

2. Minor.Athavan

... Respondents

(2nd Respondent represented through
his mother, Natural Guardian/1st Respondent)

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the impugned order made in M.C No. 2 of 2022 dated 20.01.2023 on the file of the Family Court, Sivagangai, and set aside the same.



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Crl.R.C.(MD).No.367 of 2023

For Petitioner : Mr.P.R.Prithiviraj

For Respondents : Mr.V.Kannan

ORDER

The petitioner/husband filed this petition challenging the maintenance award granted in M.C No. 2 of 2022 dated 20.01.2023 by the Family Court, Sivagangai.

2.The petitioner/husband filed the revision petition challenging the maintenance order granted in favour of the respondents herein. The first respondent is the wife and the second respondent is their child. The first respondent stated that the petitioner married the first respondent on 01.11.2006. During their wedlock, the second respondent was born. Thereafter, there was some dispute between the parties and hence, the first respondent left the matrimonial home. In the said situation, the first respondent without any means to meet her livelihood, filed a petition in M.C No.2 of 2022 claiming maintenance under Section 125 of Cr.P.C., before the Family Court, Sivagangai, claiming maintenance of Rs.20,000/- for her and Rs.20,000/- to the second respondent. In the petition, she stated that the petitioner is working as Cooperative Sub-Registrar and he also received monthly salary of Rs.85,000/-.



Crl.R.C.(MD).No.367 of 2023

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3.The petitioner/husband herein filed a counter before the trial Court denying all the allegation and specifically stated that the first respondent voluntarily left the matrimonial home. Further, she has not discharged her duty as wife. In the above situation, he is not liable to pay maintenance amount.

4.The learned trial Judge after considering documents marked as Ex.P1 to Ex.P5 and the evidence of the first respondent, namely, P.W.1 and considering the evidence of R.W.1 to R.W.3 and documents marked Ex.R.1 to Ex.R.15 granted maintenance to the respondents stating that the petitioner is duty bound to pay the monthly maintenance of Rs.10,000/- to the first respondent and Rs.6,333/- to the second respondent. Challenging the same, the petitioner/husband herein has filed this present revision case.

5.The learned counsel appearing for the petitioner submitted that the petitioner was initially working as Cooperative Sub Registrar. Subsequently, he was suspended and he was not allowed to retire and the disciplinary proceeding is pending and he received only provisional pension. Further, he is also duty bound to maintain his children through the first wife. Hence, he seeks for reduction of the maintenance amount.



Crl.R.C.(MD).No.367 of 2023

WEB COPY

6.The learned counsel appearing for the respondents submitted that the children through the first wife became major and they are earning sufficient income to maintain themselves. He also stated that he received provisional pension of more than Rs.48,000/-. Hence, he seeks for dismissal of this petition.

7.This Court considered the rival submission made on either side and perused the materials available on records and the impugned order.

8.Considering the submission made by the learned counsel for the petitioner that he was subsequently suspended from service and he only received provisional pension and he also submitted that he is duty bound to maintain his children through his first wife, this Court is inclined to reduce the award amount granted to the first respondent from Rs.10,000/- to Rs.8,000/-.

9.Accordingly, this Criminal Revision Case is partly allowed with the following directions:

9.1. The impugned award passed in M.C No. 2 of 2022 dated 20.01.2023 by the Family Court, Sivagangai is modified that the monthly maintenance in respect



Crl.R.C.(MD).No.367 of 2023

of the first respondent at Rs.10,000/- is reduced to Rs.8,000/- and the revision petitioner is directed to pay the monthly maintenance at Rs.8,000/- to the first respondent from the date of petition, payable on or before 5th Every English Calender month and is further directed to pay the entire arrears within one months from the date of receipt of copy of this order.

9.2.The remaining aspect is concerned, the award passed by the learned Family Judge would stay and it is not modified.
Consequently, the connected criminal miscellaneous petition is closed.

17.04.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No

vsg

To

1. The Family Court,
Sivagangai.
2. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.



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Crl.R.C.(MD).No.367 of 2023

K.K.RAMAKRISHNAN, J.

vsg

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CrI.M.P(MD).No.5375 of 2023

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