



Crl.R.C.(MD)No.647 of 2024
and Crl.M.P.(MD)No.6580 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 02.07.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD)No.647 of 2024

and

Crl.M.P.(MD)No.6580 of 2024

Sivaperumal

... Petitioner/Respondent

Vs.

1.Valli

2.Minor Theivanayagi

3.Minor Dharmaraj

*(Respondents No.2 and 3 Minors rep. by
their mother and natural guardian namely
the 1st respondent)*

... Respondent/petitioner

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to pass an order to call for the records and set aside the order dated 31.01.2020 made in M.C.No.09 of 2018, on the file of the Additional District Munsif cum Judicial Magistrate Court, Veda sandhur.

For Petitioner : Mr.P.Manikandan

ORDER

The Criminal Revision Case has been filed to set aside the order dated 31.01.2020 made in M.C.No.09 of 2018, on the file of the Additional District Munsif cum Judicial Magistrate Court, Veda sandhur.



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2. The husband filed the revision, challenging the maintenance award granted in favour of the respondents. The respondents filed the maintenance claim before the trial Court claiming the maintenance of Rs.5,000/- to the first respondent and Rs.3,000/- each to the second and third respondent, totally Rs.11,000/-.

3. After their marriage in 2003, the second respondent was born on 01.03.2007 and the third respondent born on 09.03.2009. Thereafter, some dispute arose between the parties. In this situation, the first respondent filed H.M.O.P.No.46 of 2015 for restitution of conjugal rights. Thereafter, the matter was settled by way of compromise. As per compromise, the petitioner did not take any steps to patch up. Hence, she once again filed the maintenance claim petition. In the petition, she stated that he was running Auto business and earning more than Rs.3,00,000/- per year. He also has agricultural lands. Hence she claimed the maintenance of Rs.5,000/- for herself and Rs.3,000/- each to the second and the third respondent.

4. The petitioner filed a counter denying the allegation and also stated that in spite of the compromise, she has not come forward to live with him. Hence there was no need to pay the maintenance. Even the allegation that he is



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conducted business is not correct and hence seeks for the dismissal of the order.

He further stated that there was some dispute between the parties and the same was not disclosed in the petition. Hence he reiterates dismissal of the petition.

5. Apart from that, she made a complaint before the respondent police under Sections 498(A), 494 and 506(i) of IPC and the same is pending.

6. During the trial, the respondent to prove the maintenance claim, examined herself as P.W.1 and 4 documents were marked as Ex.P.1 to Ex.P.4. The petitioner himself examined as R.W.1 and 4 documents were marked as Ex.P1 to Ex.P4.

7. The learned trial Judge after considering the above facts, granted maintenance of Rs.5,000/- to the first respondent and Rs.3,000/- each to the second and third respondent, totally Rs.11,000/-. Challenging the same, the petitioner filed this revision before this Court.

8. The learned Counsel for the petitioner submits that the learned trial Judge has not considered the sequence of events happened in this case and he is unable to live with her and the same was not considered and no evidence was



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adduced to prove the income of the petitioner. In such circumstances, the award passed by the learned trial Judge is not correct. Hence he seeks dismissal of the order.

9. This Court considered the rival submission on both sides and carefully perused the records.

10. The 1st respondent married the petitioner in the year 2003 and the 2nd respondent was born on 01.03.2007 and the third respondent was born on 09.03.2009. Due to the dispute, the 1st respondent filed H.M.O.P.No.46 of 2015 for the relief of restitution of conjugal rights. The petitioner had appeared and agreed to live with her and hence, the said H.M.O.P was closed on 12.11.2016. Thereafter, he has not joined her. The 1st respondent filed the M.C.No.09 of 2018 and claimed the maintenance of Rs.5000/- to each respondents. She specifically deposed that the petitioner has number of the immovable properties and also he is doing automobile business and earned more than Rs.3,00,000/- per month. But, the petitioner disputed the same and admitted that he is earning Rs.350/-per day by running auto. But, no evidence was adduced by him to prove his correct income. Taking into consideration of the specific plea that the petitioner's family members has number of properties and they are running car



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and auto, this court concurs with the quantum of monthly maintenance of Rs. 5000/- to the 1st respondent and Rs.3000/- each to the 2nd and 3rd respondents.

Considering the cost of the living, paying capacity of the petitioner, educational expenditure of the 2nd and 3rd respondents and the above guidelines issued by the Supreme Court in the case of ***Rajnish v. Neha, reported in (2021) 2 SCC 324***, the Learned Trial Judge correctly granted Rs.11,000/- as a total monthly maintenance to all the respondents.

11. Accordingly, this Criminal Revision case is dismissed. Consequently, connected miscellaneous petition is closed.

02.07.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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K.K.RAMAKRISHNAN, J.

RJR

To

- 1.The learned Additional District Munsif cum
Judicial Magistrate Court, Veda sandhur.
2. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.

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