



Crl.R.C.(MD).No.406 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 20.12.2023

Delivered on: .01.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.406 of 2023

and

Crl.M.P.(MD)Nos.5940 and 5987 of 2023

Pon Raghu

... Petitioner/Respondent/Respondent

Vs.

Asha Arun Mozhi

... Respondent/Petitioner/Petitioner

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 order passed in Criminal Miscellaneous Petition No.772 of 2022 dated 24.02.2023 in M.C.No.32 of 2010 by the learned Additional Chief Judicial Magistrate, Madurai, and set aside the same.

For Petitioner : Mr.Niranjana S.Kumar

For Respondent : Mr.S.Poornachandran

ORDER

This petition is filed to set aside the order passed by the learned Additional Chief Judicial Magistrate Court, Madurai, in Cr.MP.No. 772 of 2022 in M.C.No. 32 of 2010, dated 24.02.2023.



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2. The petitioner married the respondent on 20.05.1994. Out of their wedlock, 3 children were born. Due to difference of opinion, she left from the matrimonial home along with her children. Since she was unable to maintain herself and her children, she filed maintenance petition in M.C.No.32 of 2010 before the Additional Chief Judicial Magistrate Court, Madurai, by claiming a sum of Rs.10,000/- per month and also claiming a sum of Rs.50,000/- towards medical and other expenses. The learned Judicial Magistrate after considering the oral and documentary evidence, granted maintenance of Rs.3,000/- to each respondent. In total Rs.12,000/- was granted. After that, the children attained majority and the petitioner failed to pay maintenance regularly to the respondent. Hence, the respondent filed number of petitions on various occasions before the trial Court seeking arrears of maintenance for different periods. Previously, the respondent filed Cr.MP.No.772 of 2022 also seeking arrears of maintenance amount of Rs.36,000/- for the period between June 2019 and May 2020. By the order dated 24.02.2023, the learned trial Judge passed the following order:-

“Petitioner present. Respondent absent. Further payment not made, even sufficient time is given. Hence, it is hereby ordered to attach the salary of Respondent for Rs.18,000/- having the balance amount in this petition on process memo. Call on 14.03.2023.”



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3. Challenging the same, the petitioner filed this Revision on the ground stated in the memorandum of grounds of Revision.

4. The learned counsel for the petitioner submitted that the respondent has not come forward for amicable settlement for permanent alimony. Further, the petitioner is ready to deposit the entire arrears of maintenance amount. Hence, he prays for setting aside the order passed by the learned trial Judge by allowing this Revision.

5. The learned counsel for the respondent submitted that the amount awarded as monthly maintenance is Rs.3,000/- and the arrears is only Rs.36,000/- and the same was not complied with by the petitioner intentionally. Hence, the learned trial Judge rightly ordered to attach the salary of the respondent for Rs.18,000/- having the balance amount in the said petition on process memo and seeks for dismissal of the Revision.

6. This Court considered the submission of the both parties and perused the records and the impugned order.



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7. While comparing the living cost of the present day, the amount of Rs.3,000/- awarded by the learned trial Judge is very meagre. The petitioner is working as Deputy Superintendent of Police and earns Rs.1,21,314/- as monthly income. In the said circumstances, in all fairness, he is duty bound to pay the maintenance of Rs.3,000/- to the respondent without any further demand. Further, the arrears of amount of Rs.36,000/- for the period between June 2019 and May 2020 is not exorbitant while comparing the income of the petitioner.

8. This Court finds no *bona fide* reasons on the side of the petitioner. It is the specific case of the respondent that the petitioner is working as Deputy Superintendent of Police and earning more than Rs.1 lakh per month. The said arrears of Rs.36,000/- is very low in all fairness. The petitioner is duty bound to deposit the entire arrears amount and comply with the order of the learned trial Judge.

9. In view of the above, the impugned order passed by the learned Additional Chief Judicial Magistrate Court, Madurai, in Cr.MP.No.772 of 2022 in M.C.No.32 of 2010, dated 24.02.2023, is hereby confirmed and the Criminal



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Revision Case is dismissed. Consequently, the connected miscellaneous petitions are closed.

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09.01.2024

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

To

1. Additional Chief Judicial Magistrate Court,
Madurai.
2. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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