



CrI.R.C.(MD)Nos.372 of 2019 & 838 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CrI.R.C.(MD)Nos.372 of 2019 & 838 of 2023 and
CrI.M.P.(MD)Nos.5539 of 2019 & 11202 of 2023

CrI.R.C.(MD)Nos.372 of 2019 & 838 of 2023

Prakash

... Petitioner

vs.

1.Kanimozhi

2.Minor.Dharundev,

S/o.Prakash,

D.No.246A, Kulalaur Street,

Manamadurai, Manamadurai Taluk,

Sivagangai District.

(Represented through his mother Kanimozhi)

... Respondents

Prayer: Criminal Revision Case filed under Section 397 read with 401 of the Code of Criminal Procedure praying to call for the records pertaining to the orders dated 07.02.2019 in M.C.No.21 of 2018 passed by the Family Judge, Sivagangai and set aside the same.



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For Petitioner

:Mr.R.Alagumani

For Respondents

:Mr.V.Malaiyendran for R1
R2 - minor

CrI.R.C.(MD)No.838 of 2023

Prakash

... Petitioner

vs.

1.Kanimozhi

2.Minor.Dharundev,

S/o.Prakash,

D.No.246A, Kulalaur Street,

Manamadurai,

Manamadurai Taluk,

Sivagangai District.

(Represented through his mother Kanimozhi)

... Respondents

Prayer: Criminal Revision Case filed under Section 397 read with 401 of the Code of Criminal Procedure praying to call for the orders dated 20.02.2023 in Cr.M.P.No.252 of 2022 in M.C.No.21 of 2018 passed by the Family Judge, Sivagangai and set aside the same.

For Petitioner

:Mr.R.Alagumani

For Respondents

:Mr.V.Malaiyendran for R1
R2 - minor



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COMMON ORDER

Challenging the Maintenance Award passed in M.C.No.21 of 2018 on 07.02.2019 and the enhancement of the said Award made in Cr.M.P.No.252 of 2022 in M.C.No.21 of 2018 on 20.02.2023, the present Criminal Revision Cases are filed.

2. The first respondent Kanimozhi and the petitioner Prakash were married to each other as per Hindu rights and customs and they were blessed with a male child Dharun Dev, the second respondent herein. The petitioner is presently working as Revenue Inspector in Ooty drawing a gross salary of Rs.45,626/- and a net salary of Rs.41,335/-. The petitioner's wife and his minor child (represented by his mother), filed a maintenance case against him in M.C.No.21 of 2018 before Family Court, Sivagangai under Section 125 of Cr.P.C. claiming a sum of Rs.7,500/- per month towards maintenance. The petitioner filed a counter and after full contest, the learned Judge, Family Court, Sivagangai vide his orders dated 07.02.2019 awarded maintenance of Rs.7,000/- per month to the petitioner's wife and her minor child. Aggrieved over the said orders, the



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petitioner filed the Criminal Revision Case in Crl.R.C.(MD)No.372/2019.

Subsequently, the first respondent Kanimozhi and her Minor son Dharundev filed Cr.M.P.252 of 2022 before Family Court, Sivagangai seeking enhancement of maintenance passed in M.C.No.21 of 2018. The said petition was allowed on 20.02.2023 after full contest and the learned Judge, Family Court, Sivagangai had directed the petitioner Prakash to pay a sum of Rs.15,000/- per month to his wife and child. Aggrieved over the said orders, the petitioner Prakash has filed Crl.R.C.(MD)No.838 of 2023.

3. Mr.R.Alagumani, learned counsel appearing for the petitioner (husband) would contend that the petitioner is earning a sum of Rs. 45,626/- per month which includes hill allowance and winter allowance. According to him, once he is transferred out of Ooty, his gross salary would be around Rs.39,000/- per month and therefore he would not be in a position to pay Rs.15,000/- per month to his wife and minor child. The learned counsel would further contend that the petitioner has to maintain his aged mother and brothers and therefore, prayed for reducing the



maintenance amount awarded by the trial Court Judge.

4. Per contra, Mr.V.Malaiyendran, learned counsel appearing for the respondents would contend that the minor child is mentally challenged and therefore, the first respondent (wife) finds it difficult to purchase medicines with the meagre amount of maintenance awarded by the trial Court Judge. It is also his contention that when the petitioner is earning a sum of Rs.45,626/- per month he can very well pay a sum of Rs. 15,000/- per month towards maintenance of his wife and minor child especially when the minor child is mentally challenged. He therefore, prayed for dismissal of the revision cases.

5. It is seen from the records that the petitioner's wife and her child are living separately and they did not have any separate source of income for their maintenance. They are solely depending on the maintenance amount paid by the present petitioner (husband). It is further seen from the records that the petitioner is paying only a sum of Rs. 7,500/- per month towards maintenance to the respondents. The learned



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trial Court Judge, while awarding maintenance amount, in fact, had taken into consideration the social status of the petitioner and the respondents as well as the basic needs of the minor child. By a well reasoned order, the trial Court Judge had initially awarded a sum of Rs.7,500/- per month and the same was subsequently enhanced in Cr.M.P.No.252 of 2022 in M.C.No.21 of 2018 to Rs.15,000/- per month. The contention of the learned counsel for the petitioner is that the petitioner has to maintain his aged mother and brothers and therefore, he is not in a position to pay a sum of Rs.15,000/- per month to his wife and his minor child. The very same argument was made before the trial Court Judge. However, it was rejected by the trial Court Judge on the ground that the petitioner as a husband is bound to maintain his wife and his minor child. All the observations recorded by the trial Court Judge are cogent and acceptable. In such circumstances, I do not see any reason to interfere with the maintenance award passed in M.C.No.21 of 2018 and the subsequent enhancement made in Cr.M.P.No.252 of 2022 in M.C.No.21 of 2018 by the learned Judge, Family Court, Sivagangai.



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6. Accordingly, both the Criminal Revision Cases are dismissed. The orders dated 07.02.2019 in M.C.No.21 of 2018 and subsequent orders dated 20.02.2023 in Cr.M.P.No.252 of 2022 in M.C.No.21 of 2018 passed by the learned Family Judge, Sivagangai are hereby confirmed. Consequently, connected Miscellaneous Petitions are closed.

06.03.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To

1.The Family Judge, Sivagangai

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.HEMALATHA, J.

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