



Crl.R.C.(MD).No.662 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.04.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD) No.662 of 2023

and

Crl.M.P(MD) No.9283 of 2023

Chellapandi

... Petitioner/Respondent

Vs.

1.Minor.Kishone Mala

2.Minor.Sylendra Babu

Minor respondents are represented
by her guardian S.Indira.

... Respondents/Petitioners

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order passed in M.C.No.5 of 2020, dated 25.04.2023, on the file of the learned Judicial Magistrate, Nilakkottai and set aside the same by allowing this Criminal Revision Petition.

For Petitioner : Mr.Sepana @ Sree.P

For Respondents : Mrs.N.Juliet Latha



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ORDER

This Criminal Revision Case has been filed against the order passed in M.C.No.5 of 2020, dated 25.04.2023, on the file of the learned Judicial Magistrate, Nilakkottai and to set aside the same by allowing this Criminal Revision Petition.

2.The petitioner is the husband of one Poongodi and in their wedlock, the 1st and 2nd respondents were born on 29.08.2005 and 10.09.2006 respectively. Subsequently, the mother of the respondents died on 11.07.2013. After death of their mother, the respondents are in the custody of his aunt namely Indira, who is sister of the deceased Poongodi. The petitioner is working as Driver in TNSTC and he failed to maintain his children. Hence, the respondents through their aunt filed M.C.No.5 of 2020 before the learned Judicial Magistrate, Nilakkottai, claiming 7,500/- each to the respondents as monthly maintenance.



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3.The petitioner herein filed a counter denying the allegations made in the maintenance petition and he admitted the relationship between him and the respondents and he also stated that he received only Rs.30,000/- as monthly salary. Hence, he denied the liability to maintain the respondents.

4.To prove the maintenance, the aunt of the respondents namely Indira was examined as P.W.1 and through her, Ex.P.1 to Ex.P.10 were marked. On the side of the petitioner herein, he was examined as R.W.1 and Ex.R.1 to Ex.R.4 were marked through him. From the statement of P.W.1, it is found that the respondents are studying in a matriculation school. Considering the status of the parties, educational expenses and also considering the income of the petitioner that he received Rs.36,749/- as monthly income and apart from that he received batta, which is revealed from Ex.R.1, the learned Judicial Magistrate, granted Rs.7,500/- each to the minor respondents as monthly maintenance. Challenging the same, the present revision has been preferred by the petitioner father stating that the maintenance amount awarded by the concerned trial Judge is



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exorbitant and the maintenance petition filed by one Indira, who is sister of the deceased wife, on behalf of the respondents is not maintainable.

5.The learned counsel for the respondent would submit that considering the cost of living and the educational expenses, the concerned trial Judge has granted Rs.7,500/- each to the respondents as monthly maintenance. Hence, it is needless to interfere into the order passed by the learned Judicial Magistrate, Nilakkottai.

6.This Court has considered the rival submissions made by both sides, perused the records and also perused the impugned orders.

7.The petitioner has not disputed the relationship between himself and the respondents and he disputed about his monthly salary. From the witnesses, it is evident that after death of his wife (i.e) on 11.07.2013, the respondents/children are in the custody of their aunt namely Indira, who is sister of the deceased wife. In such circumstances, she claims maintenance to the minor respondents.



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8. After considering the above said factual aspects, evidence of P.W.1, R.W.1 and also the documents, cost of living and educational expenses, the concerned trial Court has granted the maintenance of Rs.7,500/- to each of the respondents. As per the guidelines issued by the Hon'ble Supreme Court in the case of ***Rajnish Vs. Neha***, reported in ***(2021) 2 SCC 324*** and also considering the status of the parties, cost of living and also the educational expenses of the minor respondents, the amount fixed by the learned trial Judge is in accordance with law. This Court finds no reason to entertain this petition.

9. In the result, this Criminal Revision Case is dismissed and the order passed by the learned Judicial Magistrate, Nilakkottai, in M.C.No.5 of 2020, dated 25.04.2023 is confirmed. Consequently, connected miscellaneous petition is closed.

16.04.2024

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

indu/vsg

To:

The learned Judicial Magistrate, Nilakkottai

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