



Crl.R.C.(MD).No.666 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD).No.666 of 2019

and

Crl.M.P.(MD).No.7920 of 2019

R.Mariyappan

... Petitioner/Respondent

Vs.

1.M.Karthikayini

2.Minor Velvizhi

*(2nd respondent is represented through
1st respondent, who is the legal natural
guardian and mother)*

... Respondents/Petitioners

PRAYER : Criminal Revision Petition filed under Section 397 and 401 of Criminal Procedure Code, to call for the records and set aside the order dated 29.07.2019 made in M.C.No.06 of 2016 on the file of the learned Judicial Magistrate Court No.II, Sattur and allow this revision.

For Petitioner : Mr.N.Marimuthu

For Respondents : Mr.K.P.Sankarakumarakuruparan



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ORDER

The revision petitioner/husband has filed this revision challenging the maintenance granted by the learned Judicial Magistrate Court No.II, Sattur, in M.C.No.06 of 2016, vide order dated 29.07.2019.

2. The marriage between the petitioner and the first respondent was solemnized on 20.11.2003. Out of the wedlock, the second respondent was born on 02.01.2007. At that time, the petitioner was working in the Police Department as Constable. Due to misunderstanding between the petitioner and the first respondent, they are living separately. Hence, the respondents herein filed a maintenance case before the learned Judicial Magistrate Court No.II, Sattur, seeking maintenance of Rs.10,000/- each to her and her daughter. During pendency of the same, interim maintenance was regularly paid. During pendency of the case, the first respondent preferred a private complaint against the petitioner before the learned District Munsif cum Judicial Magistrate No.I, Sattur, and the same was taken on file in C.C.No.26 of 2010. The learned District Munsif cum Judicial Magistrate No.I, Sattur, has passed an order convicting the



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petitioner, vide order dated 06.06.2018. Hence, the petitioner was removed from the Police service and so he unable to pay maintenance to the respondents. Thereafter, the learned Judicial Magistrate No.II, Sattur, after considering the evidence of the petitioner and the respondents and other documents, has passed an order, granting maintenance of Rs.2,500/- each to the respondents, vide order dated 29.07.2019. Challenging the same, the present revision has been filed.

3. The learned counsel for the petitioner would submit that in view of the conviction passed as against the petitioner by the learned trial Juge, he is unemployed now and is depending upon only his family members. In the said circumstances, he seeks dismissal of the order passed in M.C. No.06 of 2016 by the learned Judicial Magistrate No.II, Sattur and further, he seeks reduction of the maintenance amount granted in favour of the respondents.

4. The learned counsel for the first respondent/wife submitted that it is true that the petitioner was removed from his service. However, he has



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source of income. It is further submitted that the award amount granted by the learned trial Judge is totally Rs.5,000/-, which is very reasonable and it is the duty of the husband to maintain her wife and child. Hence, he seeks confirmation of the award amount passed in M.C.No.06 of 2016.

5. This Court has considered the rival submissions made by the both side counsels and also perused the records and the impugned order.

6. As on date, there is no dispute relating to the relationship between the petitioner and the first respondent. Even though it is submitted by the learned counsel for the petitioner that the petitioner was removed from the service on the basis of the conviction order passed in C.C.No.26 of 2010 by the learned Judicial Magistrate No.I, Sattur, it is the duty of the husband namely petitioner to maintain his child and wife. Further, the maintenance amount, which was awarded by the Court below is only Rs.5,000/-. Considering the cost of living and status of the parties, the amount of Rs.5,000/- is not exorbitant one. Further, as per the guidelines issued by the hon'ble Supreme Court in the case of **Rajnish Vs. Neha**



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reported in 2021 2 SCC 324, the maintenance amount awarded by the Court below is in accordance with law. Hence, this Court is not inclined to interfere into the order passed in M.C. No.06 of 2016 by the learned Judicial Magistrate No.II, Sattur.

7. Accordingly, this Criminal Revision Petition is dismissed and the order passed in M.C. No.06 of 2016 by the learned Judicial Magistrate No.II, Sattur, is confirmed. Consequently, connected Miscellaneous Petition is closed.

08.04.2024

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

To

The Judicial Magistrate Court No.II,
Sattur.



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K.K.RAMAKRISHNAN, J.

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