



Crl.R.C.(MD).No.994 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 20.12.2023

Delivered on: 09.01.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.RC(MD)No.994 of 2023

and

CrI.M.P.(MD)No.12833 of 2023

Pon Raghu

... Petitioner/Petitioner

Vs.

Asha Arun Mozhi

... Respondent/Respondent

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 dated 22.06.2023 passed by the Cr.MP.No.1099 of 2022 in M.C.No.32 of 2010 on the file of learned Additional Chief Judicial Magistrate Court, 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.1099 of 2022 in M.C.No. 32 of 2010, dated 22.06.2023.



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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, by order dated 17.02.2012, 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, on 13.10.2022, the respondent filed Cr.M.P.No.1099 of 2022 seeking arrears of maintenance amount for the period of 25 months between June 2020 and June 2022. By the order dated 22.06.2023, the learned trial Judge passed the following order:-

“The petitioner has filed this petition for recovery of arrears of maintenance for the period between 2020-2022. It is admitted fact that respondent is maintaining the daughters. The respondent is willing to pay Rs.6,000/- as Rs.3,000/- towards old balance and Rs.3,000/- towards current month amount. The respondent is directed by the order of this Court to pay Rs.3,000/- on or before 5th of every succeeding month.



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*The respondent is working as DSP and he is drawing salary of Rs.1,00,000/- and odd every month. Being a public servant as well as law enforcing authority he ought to paid the maintenance amount without any arrears. But, he has not paid from 2020 and now we are in the year 2023. The amount of Rs.3,000/- is very meagre for today's cost of living. So, this Court find that he cannot ask to apportionate the amount towards arrears and current month. **He has to first pay the arrears. Hence, he is directed to pay Rs.10,000/- per month to clear the arrears of Rs.75,000/-.***

In the result, this petition is allowed for payment of 03.07.2023.”

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.



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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.75,000/- and the same was not complied with by the petitioner intentionally. Hence, he seeks for dismissal of the Revision.

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

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.75,000/- for the period of 25 months is not astronomical amount.

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



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arrears of Rs.75,000/- is very low in all fairness. The petitioner is duty bound to deposit the entire arrears amount and comply 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.1099 of 2022 in M.C.No.32 of 2010, dated 22.06.2023, is hereby confirmed and the Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

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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