



Crl.O.P.(MD)No.19050 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.19050 of 2022

and

Crl.M.P.(MD)No.12851 of 2022

Dhanapal

... Petitioner

Vs.

1.Mallika

2.Minor. Hariharan

(Minor respondent rep. by
his mother/guardian 1st Respondent)
complainant

... Respondents

PRAYER:- Petition filed under Section 482 of Cr.P.C., to set aside the order passed in Crl.R.C.No.40 of 2019, dated 22.07.2022 on the file of the II Additional District and Sessions Court, Trichirappalli by conforming the order passed in M.C.No.16 of 2015, dated 27.06.2019 on the file of the learned Judicial Magistrate, Thuraiyur, Trichy District.

For Petitioner : Mr.V.Illanchezian

ORDER

This Criminal Original Petition has been filed seeking to set aside the order passed in Crl.R.C.No.40 of 2019, dated 22.07.2022 on the file of the II



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Additional District and Sessions Court, Trichirappalli by conforming the order passed in M.C.No.16 of 2015, dated 27.06.2019 on the file of the learned Judicial Magistrate, Thuraiyur, Trichy District.

2.The case of the petitioner is that the petitioner is the husband of the first respondent and the first respondent filed a maintenance case under Section 125 of Cr.P.C., before the trial Court in M.C.No.16 of 2015. The trial Court by its order dated 27.06.2019 awarded Rs.2,500/- to the first respondent and Rs.3500/- to the second respondent as monthly maintenance. Aggrieved by the same, the petitioner filed a revision petition before the Lower Appellate Court in Crl.R.C.No.40 of 2019 and the Lower Appellate Court confirmed the order passed by the trial court on 20.07.2022. As against the concurrent findings, the petitioner has filed the present petition before this Court.

3.The learned counsel for the petitioner would submit that the marriage between the petitioner and the first respondent was solemnized in the year 2019 and after delivery, she went to her parents house along with the second respondent and thereafter, they did not return to the marital home. After 15 years, the first respondent filed the maintenance case under Section 125 of Cr.P.C., before the trial Court and the trial Court without considering the same,



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mechanically passed the order as against the petitioner, which is not sustainable one. He would further submit that the first respondent was gainfully employed as a teacher in the private school. However, the same was not considered before the Courts below. Hence, he prayed for allowing this petition.

4.Though the petitioner filed the present petition before this Court in the year 2022, till date, notice has not been served to the respondents. Since no adverse order is passed against the respondents, notice is dispensed with.

5.Considering the pendency of the present case, this Court is inclined to dispose of the matter based on the available records.

6.Admittedly, the first respondent is the wife and the second respondent is the son of the petitioner. The first respondent filed M.C.No.16 of 2015 before the trial Court and the same was ordered on 27.06.2019 and directed the petitioner to pay Rs.2,500/- to the first respondent and Rs.3,500/- to the second respondent as maintenance. Aggrieved by the same, the petitioner preferred a revision before the Lower Appellate Court in Crl.R.C.(MD)No.40 of 2019 and the Lower Appellate Court confirmed the order passed by the trial Court. Though the first respondent made a claim after 15 years, in the present case,



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duty is cast upon the petitioner to maintain his wife and son and further, the petitioner claimed that the first respondent was gainfully employed as a teacher in the private school. However, the same was not properly proved before the trial Court as well as the Lower Appellate Court and the maintenance awarded by the trial Court is very meagre. Hence, considering the cost of living prevailing as on date, the order of the Courts below is just and reasonable.

7.In view of the above, the Criminal Original Petition is dismissed.
Consequently, connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
Sji

07.03.2024

To

1.The Additional District and Sessions Court, Trichirappalli.

2.The Judicial Magistrate, Thuraiyur, Trichy District.



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M.DHANDAPANI, J.

Sji

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