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Crl.RC.No.520 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.520 of 2024 and

Crl.M.P.No.4914 of 2024

1.Vijaya Kumar

2. Ramesh

... Petitioners

Vs.

Samiyannan

... Respondent

Prayer: Criminal Revision Case filed under under Section 397 & 401 of Cr.P.C. to call for the records pertaining to the order passed in M.C.No.8 of 2023 dated 09.11.2023 on the file of the Judicial Magistrate Court No.II, at Mettur and set aside the same.

For Petitioners

: Mr.C.Deepakkumar

For Respondent

: Mr.C.Prabakaran



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ORDER

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This Criminal Revision Case has been filed by the petitioners to set aside the order passed in M.C.No.8 of 2023 dated 09.11.2023 on the file of the Judicial Magistrate Court No.II, at Mettur.

2. The petitioners are the sons of the respondent herein. The respondent/father had filed a maintenance case against the petitioners in M.C.No.8 of 2023 before the Judicial Magistrate Court No.II, at Mettur invoking Section 125 Cr.P.C. seeking maintenance. The learned Magistrate, after enquiry, held that both the petitioners are liable to pay maintenance to the respondent/father and directed that each of the petitioners to pay Rs.5,000/- to the respondent/father. Feeling aggrieved by the same, the petitioners are before this Court by way of filing this revision.

3. The learned counsel for the petitioners submitted that the petitioners are doing only Cooli work and they are having family and children and that they are unable to maintain even themselves, whereas, the respondent/father is



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having agricultural lands out of which, he is getting income. Further, he is also doing handloom work and earning income and since the respondent/father is a man of means, he can maintain himself, but the petitioners are not having any means even to maintain themselves and their children and therefore, they are unable to pay the maintenance amount to the respondent/father. Further, the respondent/father is having ancestral property and he has let out the same to third property. The learned Magistrate failed to consider the status of the parties and on sympathy ground, directed the petitioners to pay each Rs.5,000/- to the respondent, which is exorbitant. Therefore, the order passed by the Magistrate is liable to be set aside.

4. The learned counsel for the respondent submitted that though the respondent is having ancestral property, already a suit has been filed for partition and the same is pending. Further, the petitioners are doing handloom business and they are earning considerable amount and that they have not produced any material to prove that the respondent is a earning member. Since



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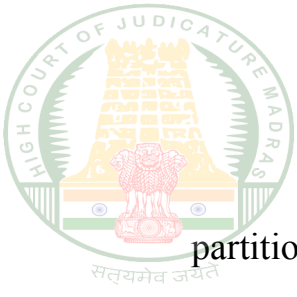
the respondent is aged 76 years, he is not in a position to maintain himself

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whereas, the petitioners are hale and healthy and having self employment and sufficient means. Further, the petitioners are enjoying the ancestral property however, they are not providing food and shelter to the respondent/father and driven him away from the resident.

5. Heard both sides and perused the materials available on record.

6. The age of the parties is admitted. Since the respondent/father is aged above 75 years, he cannot do any work at this age. Though the petitioners stated that the respondent is earning more than Rs.50,000/- per month, no material was produced to substantiate the same and no independent witness was examined to prove the means of the respondent. The petitioners only examined themselves as R.W.1 and R.W.2, but they have not examined any independent witness to prove that the respondent is enjoying the ancestral property or doing handloom business and earning money or he is a man of means. In the absence of the same and further, already there is suit pending for



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partition and therefore, the sons/petitioners are liable to maintain their age old father who is having no means to maintain himself.

7. This Court does not find any merits in the revision and there is no compelled reason to interfere with the order of maintenance passed by the Magistrate. Therefore, this Criminal Revision Case is liable to be dismissed.

8. Accordingly, this Criminal Revision Case is dismissed. Consequently, the connected Miscellaneous Petition is closed.

25.03.2025

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No
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To
The Judicial Magistrate Court No.II,
Mettur.



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P.VELMURUGAN. J.

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