



Crl.R.C.No.298 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No. 298 of 2024

1. P.Priyadarshini

2. Minor Tejawini

3. Minor Jyosini

(Minors are represented by their mother
the 1st petitioner)

... Petitioners

..VS..

P.Madhan Mohan

... Respondent

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C., to call for the records pertaining to the order dated 31.10.2023 passed in M.C.No.311 of 2017 on the file of the III Additional Principal Family Court, Chennai and set aside the same and enhance the total maintenance amount of Rs.20,000/- per month passed by way of order dated 31.10.2023 passed in M.C.No.311 of 2017 by the III Additional Principal Family Court, Chennai.

For Petitioners : Mr.B.Anandan

For Respondent : Mr.L.Chandra Kumar



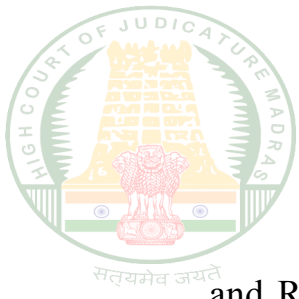
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ORDER

This Criminal Revision Petition is preferred against the order dated 31.10.2023 passed in M.C.No.311 of 2017 on the file of the III Additional Principal Family Court, Chennai and for consequential relief.

2. The first petitioner is wife, respondent is husband and petitioners 2 and 3 are their minor children. The petitioners herein filed a petition in M.C.No.311 of 2017, invoking Section 125 Cr.P.C., seeking a direction to the respondent-husband to pay a sum of Rs.50,000/- per month as maintenance to them. While that being so, the respondent-husband filed a petition in H.M.O.P.No.3138 of 2017, invoking Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights against the first petitioner-wife. The learned III Additional Principal Judge, after appreciating the entire materials, by common order dated 31.10.2023, dismissed the petition in H.M.O.P.No.3138 of 2017 and partly allowed the petition in M.C.No.311 of 2017 and directed the respondent-husband to pay a sum of Rs.5,000/- to the first petitioner-wife



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and Rs.7,500/- each to the petitioners 2 and 3 as monthly maintenance.

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Being dis-satisfied with the quantum of maintenance amount ordered by Court below, the petitioners have come forward with the present petition seeking enhancement of the said maintenance amounts.

3. The contention of the petitioners is that the respondent-husband is working as Assistant Engineer in Tamil Nadu Electricity Board and drawing more than Rupees One lakh per month as salary. During the pendency of the main maintenance case, the petitioners herein filed a petition in M.P.No.813 of 2018, claiming interim maintenance and the same was allowed on 21.11.2019 with a direction to the respondent-husband to pay a sum of Rs.10,000/- for each of the petitioners, i.e., totally a sum of Rs.30,000/- was ordered towards monthly maintenance. While passing the interim order, the respondent-husband was holding a post lower than the post of Assistant Engineer and he was promoted only in the year 2023 as Assistant Engineer, i.e., before passing the order dated 31.10.2023. However, the Court below, while deciding the main maintenance case ought to have directed the respondent-husband to pay



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more than Rs.30,000/-, but the amount was reduced to the tune of Rs.20,000/- i.e., Rs.5,000/- to the first petitioner-wife and Rs.7,500/- each to the petitioners 2 and 3 as monthly maintenance. The further contention of the petitioners is that the respondent-husband was willing to pay a sum of Rs.10,000/- each for his two minor children, however, the Court below reduced the maintenance amount from Rs.10,000/- to Rs.7,500/- each for the minor children. It is further stated that the Court below, without considering the economic status of the respondent-husband, ordered lesser amount of maintenance, which is not sufficient to maintain themselves, as the first petitioner-wife is living separately along with the minor children and she has to maintain her children and their education and other expenditures and hence, the maintenance amount may be enhanced by this Court.

4. Learned counsel appearing for the respondent-husband submitted that the first petitioner-wife is not entitled to get maintenance, since she is working as Teacher in a private School and getting more than a sum of Rs.20,000/- per month. However, the trial Court failed to



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consider the same and only on a sympathetic ground, a sum of Rs.5,000/- per month was ordered to the first petitioner-wife and Rs.7,500/- each for the petitioners 2 and 3. He further submitted that, as per the order of the Court below, dated 31.10.2023, the respondent-husband is regularly paying the maintenance amount through Bank and in order to substantiate the same, he has also filed Statement of Accounts for the period of 01.12.2024 to 25.03.2025.

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

6. The marital status of the parties is not disputed. The paternity of the children is also not in dispute. It is also not in dispute that the first petitioner-wife and respondent-husband are living separately and petitioners 2 and 3 are under the care and custody of the first petitioner-wife. The only dispute is that, according to the first petitioner-wife, she is working as Teacher and earning only meagre amount, which is not sufficient to maintain herself and her children and that the respondent-husband is working in public sector and earning more than Rupees One



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lakh per month as salary. However, on a perusal of the records, it is seen that the first petitioner-wife is working as Teacher in a private School and earning more than Rs.20,000/- per month.

7. The scope and object of Section 125 Cr.P.C., is very clear that if a wife is unable to maintain herself, she is entitled to get maintenance from her husband. In this case, the first petitioner-wife is working as Teacher and earning sufficient income to maintain herself, whereas, the respondent-husband is working as Assistant Engineer in a public sector and earning more than Rupees One lakh per month as salary. The Court below, after considering the economic status of the respondent-husband and first petitioner-wife, and only on sympathetic ground, ordered a sum of Rs.5,000/- per month as maintenance to the first petitioner-wife.

8. Considering the facts and circumstances and also considering the scope and object of Section 125 Cr.P.C., this Court does not find any perversity in the impugned order passed by the Court below as far as the first petitioner-wife is concerned. Since the divorce petition filed by the first petitioner-wife is pending before the Court below, the first



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petitioner-wife is at liberty to work out her remedy in the manner known

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to law before the competent forum where the petition for divorce is pending.

9. As far as the second and third petitioners-children are concerned, the maintenance amount is enhanced from Rs.7,500/- to Rs.10,000/- each for petitioners 2 and 3 as monthly maintenance. The respondent-husband is directed to pay the said maintenance amount to the petitioners on or before 5th of every English Calendar Month. The respondent-husband is also directed to deposit the entire arrears amount of maintenance if any, within a period of two months from the date of receipt of a copy of this order, failing which, the learned III Additional Principal Judge, Family Court, Chennai, is directed to issue warrant and collect the arrears of maintenance from the respondent-husband.

10. With the above modification and direction, the Criminal Revision Petition is disposed of.

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Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation Case : Yes/No
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To

The III Additional Principal Judge,
III Additional Principal Family Court,
Chennai.



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P.VELMURUGAN, J.

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