



Crl.R.C.Nos.332 and 419 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.04.2025

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal Revision Case Nos.332 and 419 of 2020
and
Crl.M.P.No.2496 of 2020

Crl.R.C.No.332 of 2020

K.R. Raja @ Logesh

... Petitioner

Versus

1. R.Sudha @ Hemalatha

2. R. Kavin Kishore

3. R. Niranjana

... Respondents

(Both 2nd and 3rd Respondents are represented
by mother and natural guardian R. Sudha @ Hemalatha,
the first Respondent)

Crl.R.C.No.419 of 2020

1. R.Sudha @ Hemalatha

2. R.Kavin Kishore

3. R.Niranjana

... Petitioners

(Both 2nd and 3rd Petitioners are represented
by mother and natural guardian R.Sudha @ Hemalatha)

Versus

K.R.Raja @ Logesh

... Respondent

Crl.R.C. No. 332 of 2020:- Criminal Revision Petition filed under
Section 397 and 401 of Cr.P.C., to set aside the order of maintenance dated
21.01.2020 made in M.C. No. 224 of 2018 on the file of the learned IV



Crl.R.C.Nos.332 and 419 of 2020

Additional Judge, Family Court, Chennai.

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Crl.R.C. No. 419 of 2020:- Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C., to call for the records of the order dated 21.01.2020 passed in M.C.No.224 of 2018 on the file of the learned IV Additional Judge, Family Court, Chennai and enhance the quantum of maintenance awarded to the Petitioners.

Crl.R.C. No. 332 of 2020

For Petitioner : Mr. K.P. Chandra Sekaran
For Respondents : Mrs. M. Saral
for Mr. J. Saravana Vel

Crl.R.C. No. 419 of 2020

For Petitioners : Mrs.M.Saral
for M/s.J.Saravana Vel
For Respondent : Mr.K.P.Chandra Sekaran

COMMON ORDER

As against the order dated 21.01.2020 passed in M.C. No. 224 of 2018 on the file of the learned IV Additional Judge, Family Court, Chennai, both these Criminal Revisions are filed. While Criminal Revision No. 332 of 2020 was filed by the husband seeking to set aside the order dated 21.01.2020, the wife and the children together have filed Criminal Revision No. 419 of 2020 seeking to enhance the maintenance amount awarded by the learned IV Additional Judge, Family Court, Chennai.

2. As the issues involved in both the Criminal Revisions are one and the same, they are taken up for hearing together for disposal.

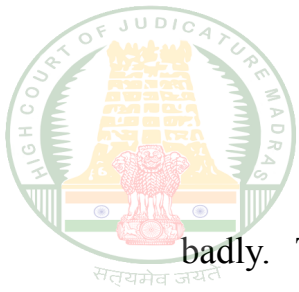


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3. For the sake of convenience, the parties are referred to as per their litigative status in M.C. No. 224 of 2018 as Petitioners and Respondent respectively.

4. The facts of the case are briefly stated as follows:

4.1. The Maintenance Case No.224 of 2018 was filed by the first Petitioner/wife on her behalf and on behalf of her two minor children under Section 125 of Code of Criminal Procedure, seeking maintenance from the husband/Respondent. As per the petition averments, the first Petitioner married the Respondent on 02.03.2008 and the marriage was solemnised at Nagharathar Paavalar Thirumana Mandapam, Thuraiyur Road, Namakkal as per Hindu rites and customs. Out of the wedlock, two male children – the second and third Petitioners were born to them on 06.02.2009 and 05.11.2013 respectively and they are under the care and custody of the first Petitioner. The Respondent is an employee of M/s.Ashok Leyland Company and earning a good salary. His father is a pensioner. The first Petitioner lived along with the Respondent till 20.04.2018. According to the first Petitioner, the Respondent is addicted to alcohol. The Respondent, in an inebriated condition, used to pick up quarrel with the first Petitioner and abused the minor children. The wife was subjected to insinuations, humiliation and insults and was treated very



badly. The wife endured all the domestic violence with patience, expecting a change from her husband/Respondent. Even though the Respondent promised to change, again, he got addicted to consuming alcohol. Therefore, the Petitioners went and lived at the parents house of the first Petitioner.

4.2. the first Petitioner/wife, however, returned to the matrimonial home from her parental home on insistence of her father-in-law. After such return, the first Petitioner noticed that the husband / Respondent was irregular in coming home and used to take frequent leave on loss of pay due to his addiction to alcohol. Also he became sick and used to sleep without attending work. Therefore, the first Petitioner took her husband/Respondent for de-addiction treatment at TTK Hospital during the year 2016. After such treatment, the Respondent promised that he would not continue the habit of consuming alcohol but he did not keep up his promise and continued consumption of alcohol and started abusing his wife and children. The children were scared of their father due to his abusive behaviour.

4.3. The first Petitioner/wife has to beg for money for payment of School fees every time with the husband/Respondent. On several occasions, the first Petitioner pledged her jewels and paid the School fees. The Petitioners are in need of Rs.96,000/- per year towards School fees. The second and third minor Petitioners are studying in AVM Rajeswari Matriculation Higher Secondary School in V Standard and UKG respectively from the academic year



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June 2018. The first Petitioner is finding it very difficult to pay the School fees to the minor children. The first Petitioner further stated that apart from addiction to alcoholic drinks, the Respondent was also having illicit intimacy with one Shanthi and when this was questioned, the Respondent threatened the first Petitioner with dire consequences. As the first Petitioner is not resourceful enough to maintain her and the two children, she had filed the maintenance case seeking a direction to the Respondent to pay Rs.30,000/- per month to the Petitioners apart from paying School fees.

4.4. The Respondent had filed a counter affidavit and resisted the averments in the Petition for Maintenance Case. According to the Respondent, he was not addicted to alcoholic drinks, as portrayed. It is stated that even though he used to occasionally take alcohol drinks during private party, he was not addicted to alcohol, as portrayed by the first Petitioner. It was also stated that though he was not addicted to alcohol, the Respondent went to T.T.K. Hospital for de-addiction at the instance of the first Petitioner during the year 2016 and thereafter, he totally left the habit of consuming alcohol. As far as his employment is concerned, it was stated that the Respondent is employed in M/s. Ashok Leyland Company and drawing a salary of Rs.50,000/- per month as his gross salary and after all deduction, he is in receipt of Rs.20,000/- as his net salary. That apart, the Respondent was in receipt of Rs.1,00,000/- as bonus. Therefore, the allegation that the Respondent is getting bonus of Rs.1,34,000/-



in a year and earns Rs.2,00,000/- per year is incorrect.

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4.5. It was also contended that the Respondent maintained the Petitioners well befitting his financial capacity and capability. After the marriage, they lived in joint family till 2012 and thereafter separate residence was arranged by the parents of the Respondent at the first floor of the house. The first Petitioner and the Respondent lived happily till 2014. Due to a petty quarrel, the first Petitioner, along with the second and third Petitioners, left the matrimonial home. While leaving the matrimonial home, the first Petitioner took all her gold jewels, essential household articles and now she is residing in the same locality just about two streets away. The Respondent gave a sum of Rs.70,000/- to the first Petitioner during September 2017 and also paid School fees for the two children to the tune of Rs.32,000/-. The Respondent also gave his scooter bearing Registration No.TN-03-S-1701 to facilitate her to go to shops and other places of importance. The Respondent is not a habitual consumer of alcohol and he will take alcoholic drinks during private party. The Respondent admitted that to avoid alcoholism, he took treatment for de-addiction in 2016 and totally left the habit of consuming alcohol. The father of the Respondent is a pensioner receiving a sum of Rs.1,600/- as pension under the family pension scheme and Rs.1,071/- from the LIC pension plan. The father of the Respondent is a chronic diabetic patient and is on regular medication and his monthly medical expenses is about Rs.2,295/-. The



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Respondent is duty bound to maintain his elderly parents. Also the father of the Respondent suffered heart ailment and undergone surgery on 29.09.2012 at Apollo Hospital and continued the medication. Even after separate residence in Virugambakkam, the first Petitioner was in the habit of finding fault with the Respondent and her attitude was unpredictable. The first Petitioner left the matrimonial home without any valid reason when the Respondent was out of station and caused mental agony to him. Therefore, he had not withdrawn from the marital obligation or conjugal relationship and always cordial to meet all her demands. Therefore, the claim of maintenance is unsustainable and is to be dismissed.

4.6. In order to prove the averments in the Maintenance Case, the first Petitioner examined herself as P.W-1 and filed 8 documents as Ex.P-1 to Ex.P-8. Similarly, the Respondent examined himself as R.W-1 and marked eight documents as Ex.R-1 to Ex.R-8. On consideration of the oral and documentary evidence, the learned IV Additional Principal Judge, Family Court passed the order dated 21.01.2020 directing the Respondent to pay a sum of Rs.5,000/- as maintenance for each of the Petitioners totally Rs.15,000/- as monthly maintenance from the date of filing of the petition i.e., 04.06.2010 and also to pay the School fees to the children. The Respondent was also directed to provide the coupon to the first Petitioner to buy provisions etc., from his Company canteen. It was also directed that the maintenance amount shall be



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paid on or before 5th of every English Calendar month.

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5. The learned Counsel for the Petitioners contended that even though Rs.10,000/- for each of the Petitioner was sought, the Family Court directed the Respondent to pay only Rs.5,000/- each. It is the submission of the learned Counsel for the Petitioners that the learned IV Additional Principal Judge, Family Court, Chennai failed to consider that the Respondent's father has independent income by way of rental income of Rs.20,000/- per month other than the pension. There is no financial obligation on the part of the Respondent to maintain the Respondent's parents. The trial Court failed to note that the payment made to Appollo Hospital for surgery undergone by father of the Respondent was covered by mediclaim insurance but this was suppressed by the Respondent. In any event, the maintenance of Rs.5,000/- granted by the Family Court is grossly insufficient for the Petitioners to maintain themselves and therefore, the maintenance amount has to be enhanced.

6. The learned Counsel for the Petitioners further submitted that the trial Court failed to note that the Respondent's total monthly income from all sources is Rs.90,000/-. While so, no prejudice would be caused to the Respondent if he is directed to pay at least Rs.30,000/- being 1/3rd of his income. The document under Ex.R-6 contains four salary slips which are for



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the year 2018. As early as in January 2018 taking note of the annual increment, the Respondent's salary should have increased to at least Rs.60,000/- but deliberately the husband disclosed a lesser amount to evade payment of maintenance. Therefore, the learned Counsel for the Petitioners prayed this Court to allow this Criminal Revision No.419 of 2020 and to direct the Respondent to pay Rs.10,000/- each to the Petitioners.

7. The learned Counsel for the husband/Respondent submitted that the learned Judge failed to consider the documents pertaining to the hospital expenses for the treatment of his father. The Court failed to see the averments of the husband/Respondent that he was absent from work due to hospitalisation of his father and therefore, he received lesser amount as salary. Further, the payment of bonus is not permanent and it will not be the same for all the years. The disbursement of bonus will vary according to the net profit of the Company. Even the sum of Rs.1,00,000/- was handed over to the first Petitioner/wife and it was not spent by the Respondent. The Court below failed to see that the husband/Respondent was made to work for a lesser period because of the recession in Automobile industries. The husband/Respondent is always willing for re-union. Whereas the first Petitioner/wife has filed a petition for divorce *vide* H.M.O.P.No.2587 of 2018. The Respondent is also making payment for the educational expenses of the children to the best of his



ability. In any event, due to recession in the automobile industry, the salary payable to the Respondent is not consistent for all the months and he is working for a limited days in a month. While so, the learned Counsel for the Respondent prayed for allowing the Criminal Revision No. 332 of 2020 by setting aside the Order passed by the learned IV Additional Judge, Family Court, Chennai.

Point for consideration in Crl.R.C.No.332 of 2020:

Whether the order dated 21.01.2020 passed by the learned IV Additional Principal Judge, Family Court, Chennai in M.C.No.224 of 2018 is to be set aside as perverse?

Point for consideration in Crl.R.C.No.419 of 2020:

Whether the order dated 21.01.2020 passed by the learned IV Additional Principal Judge, Family Court, Chennai in M.C.No.224 of 2018 is to be set aside as perverse and the Petitioners are entitled to enhancement of maintenance amount?

8. Heard the learned Counsel appearing on either side. Perused the order passed in M.C.No.224 of 2018, dated 21.01.2020 by the learned IV Additional Principal Judge, Family Court, Chennai and the typed set filed by the learned Counsel on either side.



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9. On perusal of the order passed by the learned IV Additional Principal Judge, Family Court, Chennai, it is found to be proper. Even though the first Petitioner/wife claims that her husband/Respondent is receiving Rs.58,000/- as salary, the salary slips of the husband/Respondent was marked as Ex.R-6 series. Ex.R-6 series would indicate that the Company in which the Respondent is working is facing recession and the employees are allowed to work only in two or three days in a week. When the Company was working normally, the salary claimed by the wife is found justified. When the employees are facing joblessness due to recession in the automobile industry, the grounds raised by the husband/Respondent is found justified. At the same time, taking note of the fact that the wife/first Petitioner has to manage the expenses of the family along with the children, the amount awarded by the learned IV Additional Principal Judge, Family Court, Chennai is found justified.

10. Considering the fact that the automobile industry is in recession and the workers/employees are facing the joblessness, the claim of the first Petitioner/wife seeking enhancement of maintenance amount from Rs.5,000/- each to Rs.10,000/- each is found unacceptable. When there is no income or the income is reduced due to lack of job, not by the conduct of the husband, but



by the management ordering its employees to come for work only two or three days in a week, the claim of the first Petitioner/wife cannot be accepted. If there is change of circumstances, when the Company is working to its fullest capacity and the employees are given job for 5 days a week or 6 days a week, the Petitioner wife can always approach the learned Judge, Family Court, for appropriate modification. For the present, based on the salary of the Respondent, the amount of Rs.15,000/- awarded towards maintenance of the Petitioners is found justified. The claim of the wife/first Petitioner that the surgery was performed for her father-in-law with mediclaim is also accepted. But for mediclaim, the husband has to regularly pay the subscription from his salary.

11. The husband/Respondent claimed that the first Petitioner/wife is working as Teacher in a private School. However, no document is filed as proof of such claim by the husband. In the absence of such proof, the Court need not consider the claim of the husband/Respondent in the maintenance case. In any event, the quantum of Rs.5,000/- each for the Petitioners awarded by the learned IV Additional Principal Judge, Family Court, Chennai, is found to be just and proper.

12. The claim of the husband/Respondent that the wife had filed



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HMOP No.2857 of 2018 but he is ready to rejoin her in matrimonial life and provide her necessities is not a ground for considering the claim for maintenance.

13. The learned Counsel for the Petitioners made a mention that the Respondent/husband had not deposited the amount as ordered by the Family Court. Therefore, remarks was called for from the learned IV Additional Principal Judge, Family Court, Chennai. As per the remarks offered by the learned IV Additional Principal Judge, Family Court, Chennai, vide letter bearing DIS No.5395/2023 dated 29/12/2023, the husband/Respondent had deposited Rs.6,72,700/-. Apart from that, he had deposited Rs.1,50,000/- on 27.02.2020. The amount already deposited before the Family Court was also withdrawn by the wife. Therefore, the submission of the learned Counsel for the Petitioners that the husband/Respondent has not complied with the order passed by the Family Court cannot be accepted.

14. In the light of the above discussion, the point for consideration in Crl.R.C.No.332 of 2020 is answered in favour of the Respondents and against the Petitioner. The order dated 21.01.2020 passed by the learned IV Additional Principal Judge, Family Court, Chennai in M.C.No.224 of 2018 is a well reasoned order which does not warrant any interference by this Court and the



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same is to be confirmed.

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15. In the light of the above discussion, the point for consideration in Crl.R.C.No.419 of 2020 is answered in favour of the Respondent and against the Petitioners. The order dated 21.01.2020 passed by the learned IV Additional Principal Judge, Family Court, Chennai in M.C.No.224 of 2018 is a well reasoned order which does not warrant any interference by this Court and the same is to be confirmed.

In the result, **both the Criminal Revisions are dismissed.** The order dated 21.01.2020 passed by the learned IV Additional Principal Judge, Family Court, Chennai in M.C.No.224 of 2018 is confirmed. Consequently, connected miscellaneous petition is closed.

17.04.2025

srm

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order

To

1. The IV Additional Principal Judge,
Family Court, Chennai.
2. The Section Officer,



Criminal Section,
High Court Madras.

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SATHI KUMAR SUKUMARA KURUP, J

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Common Order made in
Crl. R.C. Nos.332 & 419/2020

17.04.2025