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Crl.RC.No.515 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.515 of 2024 and

Crl.M.P.No.4905 of 2024

Sundar

... Petitioner

Vs.

1. Thavamani

2. Minor.Arunkumar

3. Minor Rajkumar

... Respondents

Prayer: Criminal Revision Case filed under under Section 397 & 401 of Cr.P.C. to call for the entire records in connection with the M.C.No.19 of 2021 on the file of the learned Judicial Magistrate, Kallakuruchi, Kallakuruchi District and set aside the order dated 08.01.2024.

For Petitioner : Mr.E.Kannadasan

For Respondents : Private notice returned unserved as left



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ORDER

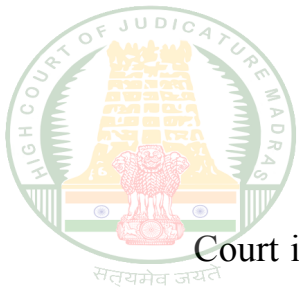
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This Criminal Revision Case has been filed by the petitioner to set aside the order dated 08.01.2024 passed in M.C.No.19 of 2021 on the file of the Judicial Magistrate No.1, Kallakuruchi, Kallakuruchi District.

2. The first respondent is the wife of the petitioner. The respondents 2 and 3 are their children. The first respondent along with the respondents 2 and 3 filed a maintenance case against the petitioner in M.C.No.19 of 2021 on the file of the Judicial Magistrate No.1, Kallakuruchi, Kallakuruchi District. The learned Magistrate, after enquiry, ordered maintenance of Rs.3,000/- to the first respondent/wife and Rs.5,000/- each to the respondents 2 and 3/minor children. Aggrieved by the same, the petitioner has filed the present revision.

3. It is seen from the cause list that the private notice sent to the respondents has been returned unserved as left and the Court notice is service awaited.

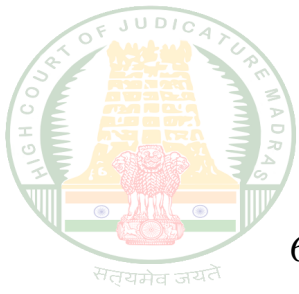
4. However, since this revision is arising out of maintenance case, this



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Court is inclined to dispose of this revision by hearing the learned counsel for the petitioner and perusing the materials available on record.

5. It is submitted by the learned counsel for the petitioner that the first respondent is running a hotel and she is a woman of means and therefore, the ingredients of Section 125 Cr.P.C. has not been made out. Further, the first respondent has not established that she has no means to maintain herself and the child. The learned Magistrate failed to consider the fact that the first respondent is a competent person to maintain herself and the children and ordered maintenance of Rs.15,000/- to the respondents. Further, the first respondent has not established the income of the petitioner and therefore, the order of maintenance has to be set aside. The learned counsel also submitted that the first respondent left the matrimonial home voluntarily without any reason and though the petitioner was ready to live with the first respondent, the first respondent refused to live with the petitioner, but, there is no findings regarding the same.



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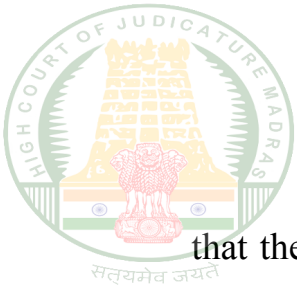
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6. It is seen that the petitioner is doing lath work business and unless he reveals the income, it would be difficult for the respondents to establish the same.

7. Further, though the petitioner stated that the first respondent only left the matrimonial home voluntarily without any reason, the petitioner has not approached the competent civil Court to get the order of divorce on the ground of desertion. In the absence of the same, there cannot be any finding regarding the same. More over, the petitioner has not established that the first respondent left the matrimonial home voluntarily without any valid reason. Therefore, the respondents are entitled for maintenance.

8. Though the petitioner stated that the first respondent is running a hotel and she is a earning member, the petitioner has not produced any oral and documentary evidence to establish the same. In the absence of the same, this Court finds no reason to interfere with the order of the Magistrate.

9. Further, the relationship of the parties is admitted. It is also admitted



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that the respondents are living separately away from the petitioner. Therefore, the respondents are entitled for maintenance.

10. As far as quantum of maintenance is concerned, while considering the price index and the cost of living prevailing as on date, the order of maintenance of Rs.3,000/- to the first respondent/wife is very meager and the maintenance of Rs.5,000/- each to the respondents 2 and 3/children are reasonable and there is no illegality or infirmity in the order passed by the Magistrate.

11. 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 No.1,
Kallakuruchi, Kallakuruchi District.



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P.VELMURUGAN. J.

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