



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 17.04.2025

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal Revision Case No.756 of 2021
and
Criminal Original Petition No.8928 of 2021
and Crl.M.P.No.5807 of 2021

Crl.R.C. No.756 of 2021

1. Latha @ Shree Latha

2. Minor Hashva Mithran

Minor is represented by his mother
and natural guardian Latha @ Shree Latha

.. Petitioners

Versus

D. Surendran

.. Respondent

Crl.O.P. No.8928 of 2021

D. Surendran

.. Petitioner

Versus

1. Latha @ Shree Latha

2. Minor Hashva Mithran

Minor is represented by his
mother/1st Respondent

.. Respondents



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

Crl.R.C.No.756 of 2021: Criminal Revision case is filed under Sections 397 and 401 of Cr.P.C to set aside the order dated 23.03.2021 made in C.R.P. No. 11 of 2018 on the file of the learned I Additional District and Sessions Judge, Tiruppur modifying the order dated 14.02.2018 made in M.C. No. 30 of 2014 on the file of the learned Chief Judicial Magistrate, Tiruppur.

Crl.O.P.No.8928 of 2021: Criminal Original Petition is filed under Section 482 Criminal Procedure Code to set aside the order dated 23.03.2021 made in C.R.P. No. 11 of 2018 on the file of the learned I Additional District and Sessions Judge, Tiruppur modifying the order dated 14.02.2018 made in M.C. No. 30 of 2014 on the file of the learned Chief Judicial Magistrate, Tiruppur.

Crl.R.C.No.756 of 2021:

For Petitioners	:	Mr. P.M. Duraisamy
For Respondent	:	Mr. M. Guruprasad

Crl.O.P.No.8928 of 2021:

For Petitioner	:	Mr. M. Guruprasad
For Respondents	:	Mr. P.M. Duraisamy

COMMON ORDER

Criminal Revision Case No.756 of 2021 had been filed as against the order dated 23.03.2021 passed in C.R.P. No. 11 of 2018 on the file of the learned I Additional District and Sessions Judge, Tiruppur modifying the order dated 14.02.2018 made in M.C. No. 30 of 2014 on the file of the learned Chief Judicial Magistrate, Tiruppur, so far as the maintenance awarded to the second



CrI.R.C.No.756 of 2021 & CrI.O.P.No.8928 of 2021

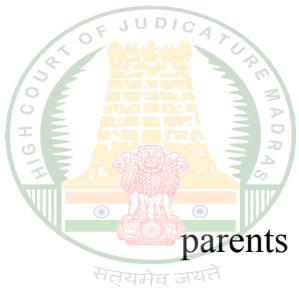
Petitioner/minor child alone is concerned.

WEB COPY

2. Criminal Original Petition No.8928 of 2021 had been filed seeking to set aside the order dated 23.03.2021 passed in C.R.P. No. 11 of 2018 on the file of the learned I Additional District and Sessions Judge, Tiruppur modifying the order dated 14.02.2018 made in M.C. No. 30 of 2014 on the file of the learned Chief Judicial Magistrate, Tiruppur, in entirety .

3. The brief facts, which are necessary for the disposal of this Criminal Revision, are as follows:-

3.1. As per the averments in M.C. No. 30 of 2014, the marriage between the first Petitioner and the Respondent was solemnised on 08.12.2008 at Arulmighu Sivanmalai Murugan Kovil, Kangeyam as per Hindu rites and customs followed by a reception held on 09.12.2008 at Saravana Mahal, Tiruppur. It was stated that the marriage expenses were borne by the parents of the first Petitioner. According to the first Petitioner, at the time of marriage, 100 sovereigns of gold jewels apart from sreedhana articles worth several lakhs were presented. That apart, a sum of Rs.5 lakhs was paid to the Respondent as per his demand besides a Honda City Car was presented. However, even on the second day, the Respondent, under the influence of alcohol, behaved rudely towards her. Further, the first Petitioner was prevented from meeting her

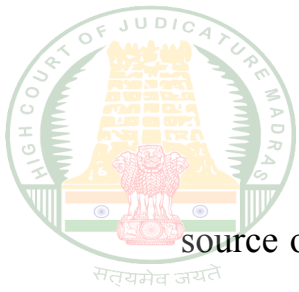


Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

parents or to talk to them over phone. The brother-in-law Yoganathan also

WEB.COM

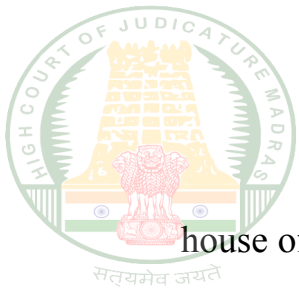
started ill-treating the first Petitioner and he tortured her verbally, physically and sexually. After marriage, the first Petitioner came to know that the Respondent is a chain smoker and he used to engage in gambling, drinking and all other immoral activities. The first Petitioner was not given proper food and she was not permitted to watch television. Except a long chain, the other jewels of the first Petitioner were taken by the Respondent and they were either pledged or sold. When it was questioned by the first Petitioner, she was severely assaulted. Subsequently, the Respondent, without the knowledge of the first Petitioner vacated the house by taking away all belonging such as silver vessels, cot, bureau, sofa sets, television set, refrigerator, washing machine and silk sarees when the first Petitioner was in her parents house for delivery of the child. When the birth of the second Petitioner was intimated, it was stated that he was born on an inauspicious date. During the month of May 2012, when the Respondent demanded money to over come the loss suffered in his business, the parents of the first Petitioner refused. While so, on 04.06.2012, the Respondent assaulted the first Petitioner and she was hospitalised. In this context, a complaint was given based on which the Respondent was arrested and subsequently let out on bail. It was stated that the Respondent had also filed HMOP No. 200 of 2014 for divorce with an intention to contract another marriage. As the Petitioners are left without any



WEB COPY

source of income for their livelihood and they are depending on the parents of the first Petitioner for everything, the present Maintenance Case was filed seeking to direct the Respondent to pay a sum of Rs.25,000/- each to the Petitioners for their monthly maintenance.

3.2. On notice, the Respondent filed a counter statement contending that the averments in the maintenance case are false. It was stated by the Respondent that before the marriage, an engagement ceremony took place at Hotel Gayathri during which 10 sovereigns of gold chain and silk sarees were presented to the first Petitioner. Further, the marriage expenses were shared by the parents of the first Petitioner and the Respondent. According to the Respondent, even on the nuptial night, the first Petitioner neglected him by asserting that she had studied M.Sc., and the Respondent studied only upto 11th Standard. It was also stated by the first Petitioner that out of the compulsion made by her parents, she married him and she was not willing to live together. It was also stated that the Respondent can contract a marriage with anyone else and she has no objection for the same. According to the Respondent, the first Petitioner will not do any household chores and it is his mother who cooked food and served the first Petitioner. Further, within a month of marriage, the parents of the first Petitioner stayed in the house of the Respondent for one month. Subsequently, the first Petitioner and the Respondent stayed in the



WEB COURT

house of the parents of the first Petitioner for one month. At that time, the first Petitioner and the Respondent were happy. The first Petitioner was conceived and the Respondent and his family members were happy. On 03.06.2012, when the Respondent was not in the house, the first Petitioner caused injury for herself and hospitalised. In this context, the first Petitioner also given a false complaint against the Respondent to the Rural Police Station Tiruppur on 04.06.2012. At that time, the Respondent was in Bangalore and he was contacted by the Police to come on 06.06.2012 for an enquiry. Accordingly, the Respondent appeared, during which, the Police Officials insisted the Respondent to hand over the properties of the first Petitioner to her. During the course of such enquiry, the Respondent was arrested and sent to judicial custody from 06.06.2012 to 12.12.2012. If the Respondent lives with the first Petitioner, he apprehends that it will be an imminent danger to his life. The Respondent therefore filed a Petition for dissolution of marriage. The Respondent is not carrying any business as the business carried on by him was closed due to the action taken by the Pollution Control Board closing his dyeing unit. The Respondent is now acting as an agent and earning only Rs.6,000/- per month. On the other hand, the Petitioners are leading a luxurious life. The Respondent, with great difficulty, is leading his life along with his aged parents. The first Petitioner/wife is hailing from a rich family and she has resourcefulness to lead a decent life and to maintain herself as well

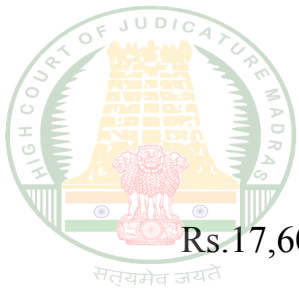


Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

as the minor son. Accordingly, the Respondent prayed for dismissal of the Maintenance Case.

3.3. Before the Court of the Chief Judicial Magistrate, Tiruppur, the first Petitioner examined herself as P.W-1 and marked seven documents as Ex.P-1 to Ex.P-7. Similarly, the Respondent examined himself as R.W-1 and marked four documents as Ex.R-1 to Ex.R-4. The Chief Judicial Magistrate, Tiruppur, upon considering the oral and documentary evidence, passed the order dated 14.02.2018 and directed the Respondent herein to pay a sum of Rs.20,000/- each to the Petitioners towards food, shelter, education and medicine.

3.4. Aggrieved by the order dated 14.02.2018 passed in MC No. 30 of 2014, the Respondent herein had filed a Petition under Section 397 (1) of The Code of Criminal Procedure to suspend the execution of the order dated 14.02.2018 in M.C. No. 30 of 2014. It was stated that the Chief Judicial Magistrate, Tiruppur insists the Respondent to pay the maintenance amount from the date of filing the petition, however, the Respondent has no source of income to deposit the amount. The first Petitioner/wife, taking advantage of the erroneous order, demanding a sum of Rs.17,60,000/- towards arrears of maintenance and she has also filed Crl.M.P. No. 299 of 2018 for recovery of



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

Rs.17,60,000/-. Taking note of the above submissions, by order dated 25.06.2018, the learned Chief Judicial Magistrate, Tiruppur granted an interim stay of operation of the order dated 14.02.2018 passed in M.C. No. 30 of 2014 on condition the Respondent deposit a sum of Rs.4 lakhs to the credit of M.C. No. 30 of 2014.

3.5. Thereafter, the Respondent/husband has filed CRP No. 11 of 2018 before the I Additional District and Sessions Judge, Tiruppur assailing the order dated 14.02.2018 passed in M.C. No. 30 of 2014 directing the Respondent to pay Rs.20,000/- per month to each of the Petitioners. It was contended that the dyeing unit run by the Respondent was closed and now he is working as an agent for a salary of Rs.6,000/- per month. It was also stated that the Respondent has been taking care of his old mother, disabled sister and bed ridden brother in law. The Respondent also stated that the first Petitioner is practicing as an Advocate and she is owning movable and immovable properties of her own. It was also stated that the first Petitioner is capable of maintaining herself and the minor son. While so, the learned Chief Judicial Magistrate, Tiruppur ought not to have directed the Respondent to pay Rs.20,000/- per month towards maintenance.

3.6. The first Petitioner filed a counter statement and contested the



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

CRP No. 11 of 2018 filed by the Respondent. It was contended that the award of maintenance amount of Rs.20,000/- to each of the Petitioners, totalling Rs.40,000/- per month is just and reasonable and it need not be interfered with by the Appellate Court.

3.7. The learned I Additional Sessions Judge, Tiruppur, by an order dated 23.03.2021 held that the first Petitioner herein admitted that she is practicing as an Advocate, but she has not filed any document in respect of the income thereof. On the other hand, the Respondent had stated that the dyeing unit run by him in Thirupur has been closed by the Pollution Control Board. Further, some of the properties belong to his family have been subjected to proceeding under Land Ceiling Act and were acquired. It is also an admitted fact that the sister of the Respondent is suffering from eye problem and his mother is pretty old. Further, his brother in law met with an accident and the Respondent has to take care of his medical expenses. While so, when the ailing sister of the Respondent, brother in law and aged mother are to be taken care of by the Respondent, the Trial Court ought not to have directed the Respondent to pay Rs.20,000/- per month. Accordingly, the Appellate Court modified the order passed by the Trial Court and directed the Respondent/husband to pay Rs.10,000/- per month to each of the Petitioners, totalling Rs.20,000/- per month as maintenance.

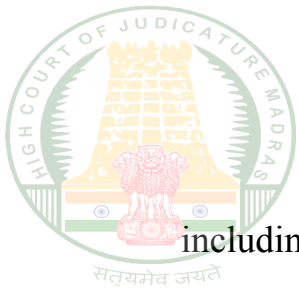


Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

WEB COPY 3.8. Aggrieved by the order dated 23.03.2021 of the I Additional Sessions Judge, Tiruppur, the Respondent/husband herein had filed Crl.OP No. 8928 of 2021 before this Court. By order dated 03.06.2021, this Court directed the Respondent to deposit Rs.5 lakhs to the credit of M.C. No. 30 of 2014 on the file of Chief Judicial Magistrate, Tirupur and continue to pay Rs.15,000/- per month to the Respondent-wife and the minor child.

3.9. Subsequently, as against the same order dated 23.03.2021 of the I Additional Sessions Judge, Tiruppur, the Petitioners herein (wife and son) have filed the present Criminal Revision Case. Pending Criminal Revision, on 17.11.2023, this Court directed the Respondent herein to deposit Rs.13,00,000/-. Accordingly, the Respondent deposited Rs.13,00,000/- on 30.11.2023 to the credit of M.C.No. 30 of 2014 on the file of the Chief Judicial Magistrate, Tiruppur.

4. The learned Counsel for the Revision Petitioners (wife and son) relied on the reported ruling of the Honourable Supreme Court in the case of ***Rajathi vs. Ganesan*** reported in ***CDJ 1999 SC 391***. He also invited the attention of this Court to the typed set of papers furnishing the copies of the order passed in Crl.O.P.No.8928 of 2021, copies of the various litigations

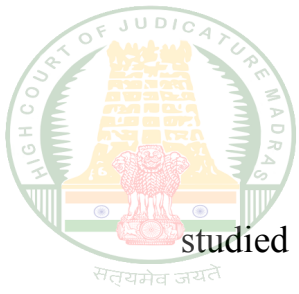


including F.I.R in Crime No.766 of 2012 filed by the Wife against the Husband

WEB.COM

before the Tiruppur Rural Police registered on 04.06.2012 for the offence under 294(b), 324 and 506(i) of I.P.C. Further, the copies of the petition in H.M.O.P.No.200 of 2014 filed by the husband for dissolution of marriage under Section 13(1)(a) of the Hindu Marriage Act before the learned Subordinate Judge, Tiruppur and the counter filed thereof by the wife also has been referred. That apart, the wife has filed D.V.A. No. 9 of 2014 under Section 12 of the Protection of Women from Domestic Violence Act, 2005, Maintenance Case in M.C.No.30 of 2014 on the file of the learned Judicial Magistrate, Tiruppur, another case filed in D.V.A. No. 08 of 2017 on the file of the learned Judicial Magistrate-4, Tiruppur have been referred to. Invariably, in all these petitions, the averments are one and the same. What had been stated in the counter in H.M.O.P. No. 200 of 2014 is the averments in D.V.A. No.9 of 2014 and M.C.No.30 of 2014. From the averments in H.M.O.P. No. 9 of 2014 filed by the husband and in the counter in M.C.No.30 of 2014, the deposition of the Petitioner and Respondent in M.C.No.30 of 2014, it is found that invariably the averments are the same.

5. The learned Counsel for the Revision Petitioners also contended that the Respondent/husband claims that the wife is a Post Graduate in MFC (Master of Finance and Control). On the date of marriage, the Respondent



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

studied only upto 11th Standard. The learned Counsel for the Revision

WEB COURT

Petitioners, however, contended that the Respondent/husband is hailing from an affluent family, previously known as Zamindar family of Ponnapuram village, Dharapuram. Further, their family was called as 'Palace family' by local people. In the domestic violence complaint under section 12, the first Petitioner/wife claims that the Respondent/husband family has superiority complex and never respected others. In the Criminal Original Petition filed by the Respondent/husband for quashing the domestic violence case against the parents of the husband, this Court quashed the Domestic Violence Case only in so far as the mother and sister of the Respondent. In the domestic violence case as well as the Maintenance Case, the first Petitioner/wife claims that when the first Petitioner left the matrimonial house for delivery, before her return, the house was vacated by the Respondent/husband without any intimation to the first Petitioner/wife and all the movables inside the house including Television, Almirah, cot, furniture, fridge and household articles including jewels of the wife were taken away. Further, the first Petitioner/wife was not permitted to enter the house where the Respondent/husband reside with his parents. Therefore, she was forced to file the Domestic Violence Case. Pending domestic violence case as well as the Maintenance Case, the Respondent/husband wanted to give quietus to all the litigations and to wriggle out of the case. Therefore, the matter was referred to mediation for an amicable



settlement. The Respondent/husband offered one time settlement of Rs.65,00,000/- (Rupees sixty five lakhs only) but the wife denied Rs.65,00,000/- (Rupees sixty five lakhs only) and consequently the mediation did not yield the desired result.

6. The learned Counsel for the first Petitioner/wife further submitted that the Respondent/husband had misappropriated the belongings of the wife, including her jewels. A First Information Report was registered against the Respondent/husband since he attacked the first Petitioner/wife demanding additional dowry to conduct business. The first Petitioner/wife is the only daughter to her parents and she has a brother by name Selvakumar, who has admitted the first Petitioner/wife in the hospital.

7. It is the contention of the learned Counsel for the first Petitioner/wife that the Respondent/husband was under the pretext of carrying out business spending money lavishly which is the lifestyle of Zamin family. The first Petitioner/wife had clearly stated that whatever presented at the time of marriage was misappropriated by the Husband. Therefore, she was not amenable to one time settlement of Rs.65,00,000/-. Apart from the jewellery and money that was misappropriated, she needs one time settlement of separate amount from the Respondent/husband. However, the Respondent/husband,



WEB COPY

without fulfilling her demand, is only attempting to wriggle out of the entire proceedings. Therefore, the claim of the Respondent/husband that the wife is capable of earning and she need not be paid any maintenance amount cannot at all be accepted. In fact, pending litigation, the Respondent/husband had alienated several property as though he is making the alienation for the benefit of the minor son, Hashva Mithran but created it wantonly with a false name, Harithsivasudan

8. The learned Counsel for the first Petitioner also submitted that Chief Judicial Magistrate, Tiruppur by order dated 14.02.2018 directed the Respondent/husband to pay a sum of maintenance of Rs.20,000/- per month for food, shelter, education and medicine for each of the Petitioners. Such an amount ordered cannot be said to be excessive or onerous. Aggrieved by the order of maintenance, the Respondent/husband preferred Criminal Revision Petition No.11 of 2018 before the Sessions Court. The learned I Additional District and Sessions Judge, Tiruppur partly allowed the Revision by modifying the order passed in M.C.No.30 of 2014 on the file of the learned Chief Judicial Magistrate, Tiruppur and directing the Revision Petitioner to pay monthly maintenance of Rs.20,000/- per month to the first Respondent/wife and for the second Respondent/minor son. In other words, only a sum of Rs.10,000/- was awarded as maintenance for each of the Petitioners, totalling



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

WEB COPS

Rs.20,000/- per month. The order passed by the learned I Additional District and Sessions Judge reducing the maintenance award passed by the learned Chief Judicial Magistrate, Tiruppur is not on the basis of any acceptable evidence. The learned I Additional District and Sessions Judge, Tirupur did not take note of the School fees and other expenses payable for the second Petitioner. The learned I Additional District and Sessions Judge also did not consider the material evidence while modifying the maintenance for the Petitioners. In any event, taking note of the prevailing cost of living, the amount of Rs.20,000/- awarded to the Petitioners is legally not sustainable. The learned Counsel for the Petitioners therefore prayed this Court to allow this Criminal Revision Case and to restore the order passed by the learned Chief Judicial Magistrate, Tiruppur in M.C. No. 30 of 2014.

9. As far as Crl.O.P No. 8928 of 2021 filed by the Respondent/husband against the very same order which is impugned in Crl.R.C.No.756 of 2021 filed by the Petitioners, the learned Counsel for the Revision Petitioners submitted that as against the order passed by the learned I Additional District and Sessions Judge, Tiruppur, modifying the maintenance amount awarded by the learned Chief Judicial Magistrate, Tiruppur, the Respondent/husband had filed Criminal Original Petition No. 8928 of 2021 and it is not maintainable and it has to be dismissed. As against the said order, only



WEB COPY a Criminal Revision Case is maintainable and the Criminal Original Petition No. 8928 of 2021 is not maintainable. In this context, the learned Counsel for the Revision Petitioners relied on the reported decision of the Hon'ble Supreme Court in the case of **Rajathi vs. C. Ganesan** reported in **CDJ 1999 SC 391** in which it was held that Criminal Original Petition is not maintainable against the order passed in the Revision. The relevant portion of the said judgment reads as follows:

“2. Wife presented a petition under Section 125 of the Code on February 3, 1993 claiming from her husband, the Respondent, maintenance for herself and her two daughters.

3. Learned Judicial Magistrate, by order dated April 24, 1995, granted her maintenance only at the rate of Rs.200/- month. Husband felt aggrieved and he went in revision to the Court of Sessions. The learned Sessions Judge, Salem by order dated November 5, 1996 dismissed the revision petition filed by the husband and confirmed the order of grant of maintenance to the wife at the rate of Rs.200/- per month. Still feeling aggrieved husband filed a petition under Section 482 of the Code in the Madras High Court. This was allowed by the learned Single Judge, who by the impugned order, set aside the orders both of the Judicial Magistrate and the Sessions Judge, why by the impugned order, set aside the orders both of the Judicial Magistrate and the Sessions Judge and dismissed the petition of the wife for maintenance.

.....
8. We are not going into the question if the High Court on examining the case on merit was correct in coming to the conclusion that the wife was possessed of sufficient means and was able to maintain herself. In the present appeal, we are only concerned to see if the High Court was justified in invoking its inherent powers under Section 482 of the Code and we do not think the High Court was right.

9. In Krishnan and another v. Krishnaveni and another, 1997(4) SCC 241 this Court explained the scope and power of the High Court under Section 482 of the Code. The question before the Court was if in view of the bar of second revision under sub-section (3) of Section 397 of the Code was prohibited, inherent power of the High Court is still available under Section 482 of the Code. This Court said as under:



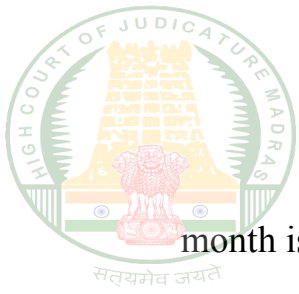
WEB COPY



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

“Ordinarily, when revision has been barred by Section 397(3) of the Code, a person-accused/complainant-cannot be allowed to take recourse to the revision to the High Court under Section 397(1) or under inherent powers of the High Court under Section 482 of the Code since it may amount to circumvention of the provisions of Section 397(3) or Section 397(2) of the Code. It is seen that the High Court has suo motu power under Section 401 and continuous supervisory jurisdiction under Section 483 of the Code.”

10. Per contra, the learned Counsel for the Respondent/husband submitted that the wife is a Post Graduate in MFC (Master of Finance and Control) and also L.L.B. She is practicing as an Advocate in the District Court and other Courts in Tiruppur District. The learned I Additional District and Sessions Judge, in the order dated 23.03.2021 clearly held that the Respondent/husband lost his business and it was closed by the Pollution Control Board. It was also recorded that the Respondent/husband has to take care of his sister, who is suffering from poor vision. The Respondent/husband also has to take care of his aged mother. That apart, the Respondent/husband has an obligation to take care of his brother-in-law who is bed ridden due to an accident. Further, the learned I Additional District and Sessions Judge, Tiruppur considered that the first Petitioner/wife is practicing as an Advocate and she has wherewithal to maintain herself. It was further held that when the first Petitioner/wife did not produce any documentary evidence to show the actual earning of the husband, directing the Respondent/husband to pay Rs.20,000/- per month to each of the Petitioners amounting to Rs.40,000/- per

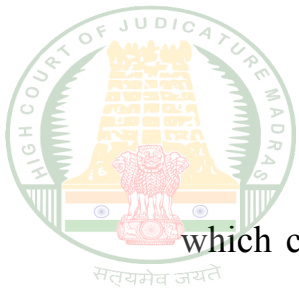


month is not proper.

WEB COPY

11. The learned Counsel for the Respondent/husband submitted that the first Petitioner/wife had filed the present Crl.R.C.No.756 of 2021 to set aside the modification of the order of maintenance from Rs.40,000/- to Rs.20,000/- per month. Whereas Crl.O.P.No. 8928 of 2021 was filed by the Respondent/husband seeking to set aside the entire maintenance ordered by the learned Chief Judicial Magistrate in M.C.No.30 of 2014 dated 14.02.2018 and the modified order passed by the learned I Additional District and Sessions Judge in C.R.P.No. 11 of 2018. It was clearly pointed out that the Respondent/husband has no permanent income and he is struggling to meet both the ends. In any event, the maintenance amount of Rs.20,000/- to each of the Petitioners amounting to a total sum of Rs.40,000/- per month is excessive, onerous and it was rightly reduced to Rs.20,000/- per month by the Appellate Court.

12. The learned Counsel for the Respondent/husband also referred to the attempts made by the Respondent/husband to put an end to various vexatious litigations initiated by the first Petitioner/wife by offering Rs.60,00,000/-. However, the first Petitioner/wife, in order to harass and embarrass the Respondent/husband, scaled up her demand for Rs.65,00,000/-,



WEB COURT

which could not be mobilised by the Respondent/husband. In any event, the Petitioners did not produce any document to show the resourcefulness of the Respondent/husband. The Respondent/husband had lost his business as also various properties. The Respondent/husband is struggling to maintain his sister, who suffers from vision problem, his aged mother and bed ridden brother-in-law. Taking note of the above, the learned I Additional District and Sessions Judge, Tiruppur rightly modified the order passed by the learned Chief Judicial Magistrate, Tiruppur and such a well reasoned order does not call for any interference by this Court. Accordingly, the learned Counsel for the Respondent/husband prayed for dismissal of the present Criminal Revision Case filed by the Petitioners.

Point for Consideration:-

Whether the Petitioners are entitled to get the order dated 23.03.2021 passed in CRP No. 11 of 2018 on the file of the I Additional District and Sessions Judge, Tiruppur set aside and consequently entitled for restoration of the order dated 14.02.2018 passed in Maintenance Case No. 30 of 2014?

13. Heard the learned Counsel for the Petitioners and the learned Counsel for the Respondent. Perused the order dated 23.03.2021 passed in C.R.P. No. 11 of 2018 on the file of the learned I Additional District and



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

Sessions Judge, Tiruppur and also the order dated 14.02.2018 made in M.C. No.30 of 2014 on the file of the learned Chief Judicial Magistrate, Tiruppur.

14. Before dealing with the rival submissions, it is necessary to refer to Section 399 Code of Criminal Procedure, 1973, which read as follows:-

“(3) Where any application for revision is made by or on behalf of any person before the Sessions Judge, the decision of the Sessions Judge thereon in relation to such person shall be final and no further proceeding by way of revision at the instance of such person shall be entertained by the High Court or any other Court.”

15. Therefore, the Revision filed by the husband in C.R.P. No. 11 of 2018 as against the maintenance of Rs.40,000/- per month awarded by the learned Chief Judicial Magistrate, Tiruppur in M.C.No.30 of 2014 is final. Therefore, he cannot file further Revision. Instead he had filed Crl.O.P.No. 8928 of 2021, seeking to set aside the order passed by the learned Chief Judicial Magistrate, Tiruppur in M.C. No. 30 of 2014 as well as learned I Additional District and Sessions Judge in Criminal Revision Petition in C.R.P.No.11 of 2018. As per the decision of the Honourable Supreme Court cited by the learned Counsel for the Revision Petitioners, the Crl.O.P. No.8928 of 2021 filed by the Respondent/husband is not at all maintainable. As per Section 399 of Cr.P.C, 1973 the Criminal Original Petition under Section 482 of the Code of Criminal Procedure cannot be filed by the husband, who is the Revision Petitioner in C.R.P.No. 11 of 2018 on the file of the learned I



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

Additional District and Sessions Judge, Tiruppur. Whereas the Revision

WEB COURT

Petitioners/wife and son are not prohibited or restrained by the provisions of Section 399 Cr.P.C, 1973 to file the present Criminal Revision Case as against the order modifying the quantum of maintenance.

16. It was contended on behalf of the Revision Petitioners that the learned I Additional District and Sessions Judge, Tiruppur had modified the order of maintenance without any acceptable reasons. In fact, pending Criminal Revision Case, the parties were directed to settle the dispute amicably. It is admitted that the Respondent/husband offered one time settlement to the tune of Rs.60,00,000/-. If so, it cannot be said that the Respondent/husband has no wherewithal to maintain himself. This only proves that he is from an affluent background. When he wanted to settle the entire dispute by paying Rs.60,00,000/-, the wife had disputed it and claimed Rs.65,00,000/-. In those circumstances, the parties could not resolve their dispute amicably and consequently, this Criminal Revision Case is listed for hearing before this Court for disposal on merits.

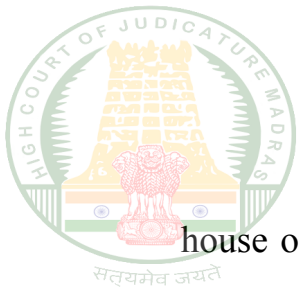
17. The order passed by the learned Chief Judicial Magistrate, Tiruppur in Maintenance Case is found proper in the light of the documents furnished as typed set furnished by the Revision Petitioners. On the other hand, the order



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

passed by the learned I Additional District and Sessions Judge, Tiruppur on 23.03.2021 in CRP No. 11 of 2018 is found without any reasonable cause.

After having married the first Petitioner and having used all the costly articles and jewels etc., of the wife for his business, the claim of the Respondent/husband that he is earning only Rs.6,000/- per month is found to be not proper. The Respondent/husband had not disputed that he hails from a well-off family. In fact, the first Petitioner/wife furnished the sale deed executed by the husband as though it is for the benefit of the minor child by giving a false name as Harithsivasudan. Further, in the typed set furnished in Crl.O.P. No. 8928 of 2021, the land ceiling proceedings initiated indicate that the Respondent/husband hails from an affluent family. Nowhere, he had disputed the claim that he is from affluent family. The fact that the first Petitioner/wife is a Post Graduate in MFC (Master of Finance and Control) was married to a person who is not a graduate itself indicates that he is from an affluent family. As per the contents in the counter in the Maintenance Case and in the H.M.O.P by both parties, the admission as well as averments are verbatim the same. Therefore, each claims that the other is well off. Each claims that the marriage was performed by their family and not the other side. It is alleged by the Respondent/husband that the family of the first Petitioner/wife at the time of marriage, demanded the husband's parents to provide a separate house for the newly married and only after taking the new



WEB CAM

house on lease, the betrothal function was performed. On the other hand, it is alleged by the first Petitioner/wife that the parents of the Respondent/husband demanded her parents to purchase a new house in the name of the bridegroom and also to purchase a car. Accordingly, the parents of the first Petitioner/wife also sought time to purchase a property in the name of the husband. In the meantime, they purchased a car in the name of the husband/bridegroom. Thus, it is evident that the parents of the first Petitioner/wife heeded to all the demands of the parents of the Respondent/husband as they hail from an affluent family/Zamin family in Ponnapuram Village, Dharapuram. The first Petitioner/wife also contend that the family of their husband, in the locality, will be called as 'Palace family' by the local people. Thus, both the family of the first Petitioner/wife and the Respondent/husband are affluent. Under those circumstances, the claim of the husband that he earns only Rs.6,000/- cannot at all be accepted. The claim made by the husband that he is not liable to pay maintenance also cannot be accepted in the facts and circumstances of this case. At the same time, the first Petitioner/wife also acquired a Law degree, enrolled herself as a member of the Bar. It must be stated that an Advocate cannot be expected to earn immediately after his or her enrollment and it may take some time. For the first few years of an Advocate's career cannot be full of roses. It has highs and lows. While so, it cannot be gainsaid that the first Petitioner/wife, out of her profession as an Advocate, earns more and can take



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

care of herself and the minor son. In any event, the obligation of the Respondent/husband to pay maintenance to the Revision Petitioners is not only legal but also moral.

18. Having examined the factual aspects at considerable length, this Court is of the view that the learned I Additional District and Sessions Judge, Thirupur is not justified in modifying the quantum of maintenance awarded to the Revision Petitioners by the learned Chief Judicial Magistrate, Thirupur. This is more so that the husband, during the mediation proceeding, offered to pay a sum of Rs.60,00,000/- towards full quit. In such circumstances, it cannot be gainsaid that the Respondent/husband is earning only Rs.6,000/- and he is suffering and struggling to maintain himself and his family.

19. In the light of the above discussion, the Points for consideration is answered in favour of the Revision Petitioners (wife and minor son) and against the Respondent/husband. The order dated 23.03.2021 passed in CRP No. 11 of 2018 by the learned I Additional District and Sessions Judge, Tirupur is to be set aside and consequently, the order dated 14.02.2018 passed in M.C. No. 30 of 2014 on the file of the learned Chief Judicial Magistrate, Thirupur is to be restored.

In the result, the Criminal Revision Case No.756 of 2021 is allowed.



CrI.R.C.No.756 of 2021 & CrI.O.P.No.8928 of 2021

The order dated 23.03.2021 passed in CRP No. 11 of 2018 by the learned I Additional District and Sessions Judge, Tirupur is set aside and consequently, the order dated 14.02.2018 passed in M.C. No. 30 of 2014 on the file of the learned Chief Judicial Magistrate, Thirupur is restored.

In the light of the order passed in Criminal Revision Case No.756 of 2021 setting aside the order dated 23.03.2021 passed in CRP No. 11 of 2018 by the learned I Additional District and Sessions Judge, Tirupur and consequently, restoring the order dated 14.02.2018 passed in M.C. No. 30 of 2014 on the file of the learned Chief Judicial Magistrate, Thirupur, **the Criminal Original Petition No.8928 of 2021 is dismissed.** Consequently, the connected miscellaneous petition is closed.

17.04.2025

shl
Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking order

Criminal Revision Case No.756 of 2021
and
Criminal Original Petition No.8928 of 2021

SATHI KUMAR SUKUMARA KURUP, J.

At the time of pronouncing orders, the learned Counsel for the Revision



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

Petitioners (wife and son) sought this Court to fix time for payment of arrears of maintenance amount.

2. The learned Counsel for the Respondent/husband submitted that the Revision Petitioner/wife shall file appropriate petition before the learned Chief Judicial Magistrate, Thiruppur.

3. Considering the submission of the learned Counsel for the Revision Petitioners (wife and son) as well as the Respondent/husband, the first Petitioner/wife is directed to file petition for recovery of the arrears of maintenance before the learned Chief Judicial Magistrate, Thiruppur. The learned Chief Judicial Magistrate, Thiruppur, is directed to pass appropriate orders after hearing the parties within a period of three months from the date of filing of the petition.

17.04.2025

srm



WEB COPY



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

To

1. The I Additional District and Sessions Judge,
Tiruppur.
2. The Chief Judicial Magistrate,
Tiruppur.
3. The Section Officer,
Criminal Section,
High Court of Madras.



WEB COPY



Crl.R.C.No.756 of 2021 & Crl.O.P.No.8928 of 2021

SATHI KUMAR SUKUMARA KURUP, J

shl

Common Order
in Crl.R.C.No.756 of 2021
and Crl.O.P.No.8928 of 2021

17.04.2025