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CRL RC No. 1330 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2025

CORAM

THE HONOURABLE MR JUSTICE P. VELMURUGAN

CRL RC No. 1330 of 2024

and

CRL MP Nos.11404 & 14061 of 2024

1. B.Jayachandran
S/o.Late Balaraman,
Plot No.31, Deracon Residency,
Kithanahalli Main Road,
Bommachandra-560 099,
Bengaluru.

Petitioner(s)

Vs

1. S.Thilagavathi
D/o.Sowrirajan

2.Minor Syam Balaji
S/o.B.Jayachandran,
Minor Rep.By His Guardian/mother
S.Thilagavathi,
Both Are Residing At Odayanandal
Village, Thirunavalur Post, Ulundurpet
Taluk, Kallakurichi District.



Respondent(s)

PRAYER:

WEB COPY This Criminal Revision Petition is filed under Section 397 and 401 of Cr.P.C., to call for the records and to set aside the order dated 02.04.2024 passed in M.C.No.1/2021 by the learned Additional District Munsif (The Judicial Magistrate No.2 Full Additional Charge), Ulundurpet.

For Petitioner(s): Mr.N. Manoharan

For Respondent(s): Mr.M.Nalla Thambi

ORDER

The petitioner has challenged the order dated 02.04.2024 passed in M.C.No.1/2021 by the learned Additional District Munsif (The Judicial Magistrate No.2 Full Additional Charge), Ulundurpet.

2. The respondents herein filed a maintenance case in M.C.No.1 of 2021 on the file of the Judicial Magistrate Court No.II, Ulundurpet. The learned Magistrate, by order dated 02.04.2024, directed the petitioner to pay Rs.30,000/- as maintenance to the second respondent/minor son and dismissed the petition against the maintenance sought for by the first respondent/wife. Aggrieved by



the maintenance order passed by the learned Magistrate with regard to second respondent/minor son the petitioner has filed this Criminal Revision Petition.

3. The learned counsel for the petitioner/husband submitted that the petitioner was working as Electrician in the ship and he was earning Rs.One Lakh per month. He was working in the ship only for six months per year. Now, he resigned the job. Both the petitioner and the first respondent had already got married and divorced. This is the second marriage for both the petitioner and the first respondent. The petitioner purchased the property in the name of the first respondent through which, the first respondent is getting rental income. After retirement, the petitioner/husband is not having sufficient income to maintain himself. Further, he submitted that the petitioner is paying Rs.30,000/- for both wife and children. The learned Judicial Magistrate No.II, Ulundurpet dismissed the maintenance petition with respect to the first respondent/wife and ordered Rs.30,000/- to the second respondent/son. There is a compelling reason to interfere with the order passed by the learned Magistrate.



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4. The learned counsel for the respondents submitted that the petitioner is earning more than Rs.One Lakh per month. The divorce was granted by the III Additional District and Sessions Judge, Bengalauru in M.C.No.5025 of 2019 by judgment dated 01.02.2020 on the ground of desertion. After getting divorce, the petitioner married another person. He settled his properties in favour of his third wife in order to avoid maintenance. Now, the first respondent is unable to maintain herself and the second respondent/minor son. The learned Judge, Family Court rightly ordered maintenance. Aggrieved over the dismissal order of maintenance towards the first respondent, the first respondent/ wife preferred revision before the learned Sessions Judge and the same is pending.

5. Heard the learned counsel on either side and perused the materials available on record.

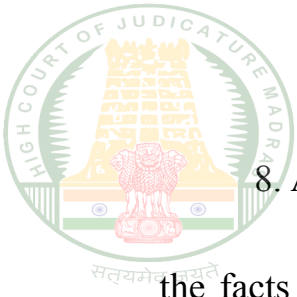
6. The relationship between the parties is not in dispute. The fact that both the petitioner and the respondent are living separately, is also not in dispute. The petitioner has got married third time with another person, after getting



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divorce with the first respondent. The Judicial Magistrate No.II, Ulundurpet dismissed the maintenance case as against the wife. Aggrieved over the dismissal order, the first respondent wife filed a revision and the same is pending before the Court of Session. Therefore, this Court does not want to discuss anything about the dismissal of maintenance case with regard to the first respondent/ wife.

7. The subject matter of revision is the impugned order passed by the learned Magistrate with regard to second respondent/son. According to the counsel for the petitioner, the maintenance amount ordered by the trial court is excessive and beyond the relief as sought for in the maintenance case. The petitioner was working as Electrician in the ship and was getting more than Rs.One Lakh and subsequently he got retirement and got a hefty amount. The minor/second respondent is residing with the first respondent/mother. Maintenance to the first respondent/mother would be dealt before the Court of Session where the revision is pending.



8. As far as maintenance awarded to minor son is concerned, considering the facts and circumstances of the case, economic condition and status of the petitioner, fluctuation of the price index day-by-day, and studies to be pursued by the second respondent, the maintenance amount of Rs.30,000/- to the second respondent, as ordered by the learned trial court is reduced into Rs.20,000/-.

9. With the abovesaid modification, this Criminal Revision is partly allowed. Consequently, connected miscellaneous petitions are closed.

01-04-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To
The Additional District Munsif (The Judicial Magistrate No.II, Full Additional
Charge), Ulundurpet.



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P.VELMURUGAN J

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