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Crl.R.C.Nos.1298 and 1449 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case Nos. 1298 and 1449 of 2024

Sundarammal

... Petitioner

in Crl.R.C.No.1298 of 2024

Ramasamy

... Petitioner

in Crl.R.C.No.1449 of 2024

..VS..

Ramasamy

... Respondent

in Crl.R.C.No.1298 of 2024

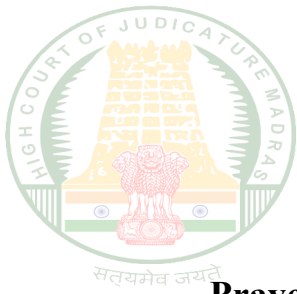
Sundarammal

... Respondent

in Crl.R.C.No.1449 of 2024

Prayer in Crl.R.C.No.1298 of 2024 :

Criminal Revision Case filed under Sections 397 and 401 Cr.P.C., to enhance the maintenance awarded in the order dated 28.02.2024 made in Crl.M.P.No.8 of 2018 in M.C.No.133 of 2005 on the file of the Principal Family Court, Coimbatore, and set aside the same by allowing this Criminal Revision Petition.



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Prayer in Crl.R.C.No.1449 of 2024 : Criminal Revision Case filed under Sections 397 and 401 Cr.P.C., to set aside the order dated 28.02.2024 made in Crl.M.P.No.8 of 2018 in M.C.No.133 of 2005 on the file of the Principal Family Court, Coimbatore.

For Petitioner : Mr.N.Manoharan
(in Crl.R.C.No.1298 of 2024) and
Respondent (in Crl.R.C.No.1449 of 2024)

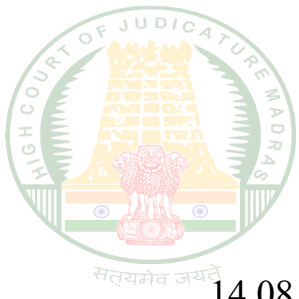
For Respondent : Mr.B.Kumarasamy
(in Crl.R.C.No.1298 of 2024) and
petitioner (in Crl.R.C.No.1449 of 2024)

COMMON ORDER

These Criminal Revision Cases are preferred against the order order dated 28.02.2024 made in Crl.M.P.No.8 of 2018 in M.C.No.133 of 2005 on the file of the Principal Family Court, Coimbatore.

2. The petitioner and respondent in Crl.R.C.No.1298 of 2024 are wife and husband and vice versa in Crl.R.C.No.1449 of 2024. For the purpose of convenience, the parties are described as husband and wife.

3. The marriage between both the parties was solemnised on



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14.08.1983 and due to difference of opinion they got separated.

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Subsequently, the husband married one Rathinam in the year 1986. Thereafter, wife filed a maintenance case in M.C.No.214 of 1995 on the file of the Judicial Magistrate - VI, Coimbatore and the learned Magistrate *vide* order dated 15.03.1997, directed husband to pay a sum of Rs.300/- per month as maintenance to his wife. The husband filed a suit in O.S.No.1 of 2006 on the file of the Family Court, Coimbatore for declaration of nullity of marriage, and wife filed maintenance case in M.C.No.133 of 2005 for enhancement of maintenance. The learned Judge, taken up both cases together and *vide* order dated 11.11.2009 dismissed the suit holding that the marriage is valid and enhanced the maintenance to Rs.1000/- per month.

4. Being not satisfied with the quantum of maintenance, the wife filed revision petition in Crl.R.C.No.610 of 2010 before this Court. This Court, by order dated 02.08.2017 enhanced the maintenance to Rs.2,000/- per month from the month of January 2013 onwards, besides that this Court also directed the District Collector, Coimbatore District to

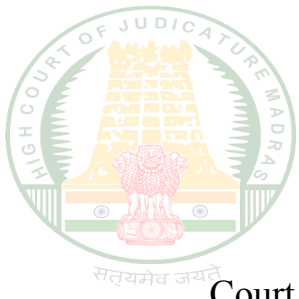


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consider payment of a sum of Rs.1,000/- per month to the wife under any one of the schemes of Government without being bound by technicalities. Subsequently, wife filed a petition in C.M.P.No.8 of 2018 for enhancement of monthly maintenance from Rs.2,000/- to Rs.10,000/- and also to pay further sum of Rs.10,000/- towards medical expenses. The Court below, after appreciating the entire materials, by order dated 28.02.2024, directed the husband to pay a sum of Rs.3,000/- per month from the date of petition till the date of the order and to pay a sum of Rs.5,000/- per month to the wife as maintenance from the date of the order. Aggrieved by the said impugned order, the wife and husband have filed the revision petitions vice versa.

5. Learned counsel for the wife submitted that the wife, who is aged about 63 years is illiterate and poor lady and all these years she managed to survive with her coolie work, besides the maintenance amount awarded by the Court below. Now, she cannot do the coolie work due to her age and ill health and she has no source of income other than her monthly maintenance and hence, the maintenance awarded by the

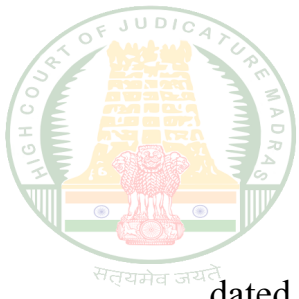


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Court below needs to be enhanced. However, the husband is having agricultural lands measuring about 10 acres and getting sufficient income from agriculture. In order to avoid payment of maintenance to wife, he settled his properties in favour of his son, who is born to his second wife Rathinam, by way of a settlement deed. Now, he had taken a stand that he has no source of income. Therefore, the order passed by the learned Principal Family Judge, is liable to be set aside.

6. Per contra, learned counsel appearing for the husband submitted that the husband is aged about 67 years and he met with an accident and undergone surgery and he is struggling to lead his day-to-day life without any income. However, wife is having sufficient means to maintain herself. In the Affidavit of Assets and Liabilities, she herself admitted that she is having two house sites in prime locality in Coimbatore. Moreover, she received sale consideration from the sale of property belonged to her mother and she is having sufficient cash in her hands apart from that she is getting a sum of Rs.10,000/- per month as interest. He further submitted that on the earlier occasion, this Court *vide* order



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dated 02.08.2017 in Crl.R.C.No.610 of 2010, enhanced the maintenance from Rs.1,000/- to Rs.2,000/- in the year 2017, but, immediately in the year 2018, she filed a petition seeking further enhancement of the maintenance amount. The learned Judge, failed to consider the economic status of the wife, by wrongly construing that the husband has not filed any proof to substantiate the claim of the wife and enhanced the amount from Rs.2,000/- to Rs.5,000/-, which warrants interference by this Court.

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

8. Admittedly, the marital relationship between the parties is not in dispute and it is also not in dispute that both are living separately. The contention of the learned counsel appearing for the wife is that wife, who is aged about 63 years is a poor and illiterate lady and who has no source of income other than maintenance and she is struggling to lead her day-to-day life in Coimbatore based on the monthly maintenance i.e., Rs.5,000/-. At this juncture, the contention of the husband is that the wife is having sufficient income and she is having house sites, moreover, the husband is paying maintenance from the year 1995 without any default.



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9. It is seen from the records that from the year 1995 onwards, the wife is filing maintenance cases one after another invoking Section 125 Cr.P.C. and getting interim maintenance from the year 1995. However, she has not filed a suit or any other petition seeking permanent alimony. Further, the wife herself admitted in her Affidavit of Assets and Liabilities, she is having two house sites and hence, her contention that she has no source of income is not acceptable.

10. Further, it is the contention of the husband that though this Court in Crl.R.C.No.610 of 2010 dated 02.08.2017 enhanced the maintenance from Rs.1000 to Rs.2000/-, immediately she filed a petition in C.M.P.No.8 of 2018 for enhancement of maintenance amount. However, on a perusal of the records it is seen that the revision case was filed before this Court in the year 2010 and the case was disposed in the year 2017. However, considering the status of the husband and wife and source of income of both the parties, the learned Judge ordered a sum of Rs.5,000/- per month, which does not warrants any interference.



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11. Considering the cost of living and prevailing price index and also considering the status of the husband and wife, this Court does not find any perversity in ordering Rs.5,000/- as monthly maintenance to wife. As there is no merit in these revision petitions, the same are liable to be dismissed. Accordingly, these criminal revision petitions are dismissed. Consequently, connected miscellaneous petition is closed.

12. However, now the husband is directed to pay the entire arrears of maintenance, less the amount if any already paid, failing which, the learned Judge, Principal Family Court, Coimbatore is directed to take coercive steps to collect the arrears of maintenance, if not paid.

26.03.2025

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

The Principal Family Judge,
Principal Family Court,
Coimbatore.



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P.VELMURUGAN, J.

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