



Crl.Re. No.1205 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2025

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal Revision No. 1205 of 2019

Manimegalai

.. Petitioner

Versus

M. Rudramoorthy

.. Respondent

Criminal Revision filed under Section 397 and 401 of Cr.P.C., praying to call for records in connection with Order dated 30.07.2019 passed in FCMC No. 47 of 2018 on the file of the Family Court, Vellore, Vellore District and enhance the maintenance amount from Rs.6,000/- to Rs.15,000/- per month.

For Petitioner : Mr. T. Saravanan
For Respondent : Mr. G. Appavu

ORDER

This Criminal Revision had been filed by the wife seeking enhancement of the maintenance amount from Rs.6,000/- awarded by the Family Court, Vellore in the order dated 30.07.2019 passed in F.C.M.C. No. 47 of 2018 and to direct the Respondent to pay a sum of Rs.15,000/- per month towards maintenance.



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2. The brief facts, which are necessary for consideration of this Criminal Revision Case, are as follows:-

2.1. The Petitioner has filed F.C.M.C. No. 47 of 2018 before the Family Court, Vellore contending *inter alia* that the marriage between her and the Respondent was solemnised on 14.07.1989 as per Hindu rites and customs. In the course of the matrimonial life, a female child was born. According to the Petitioner, after her marriage, the Respondent had illicit intimacy with one Saraswathi and residing with her and when this was questioned, the Petitioner was physically assaulted and driven out of the matrimonial home along with the female child on 18.04.1992 in the midnight. The Petitioner therefore took shelter in her father's house at Bengaluru from where she has given a complaint to the Commissioner of Police, Bengaluru. During enquiry, the Respondent appeared and tendered apology and gave undertaking to take back the Petitioner and the minor child, but he did not do so. The Petitioner, out of her hard earnings, met the educational expenses of the daughter. The Petitioner also filed F.C.M.C. No. 15 of 2014 before the learned Chief Judicial Magistrate, Vellore and it was posted before the Lok Adalat for exploring the possibility of settlement. During enquiry, the Respondent assured to take back the Petitioner and the minor daughter. In continuation of the same, the



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Petitioner and the Respondent lived together for two months. In view of the reunion, F.C.M.C. No. 15 of 2014 filed by the Petitioner was dismissed. However, the Petitioner was once again driven out of the matrimonial home. Therefore, she had taken out a fresh application for maintenance. According to the Petitioner, the Respondent is employed as T.T.R. in Southern Railway and drawing Rs.1,07,942/- per month. The Respondent is also having his own house at H.No.28, Bajanai Koil Street, Katpadi, Vellore District, worth Rs.20 lakhs. Therefore, the Petitioner filed F.C.M.C. No. 47 of 2018 to direct the Respondent to pay Rs.50,000/- towards maintenance to her and the minor daughter.

2.2. The Respondent filed a counter statement before the Family Court, Vellore denying the averments made in F.C.M.C. No. 47 of 2018. It was stated that the Respondent never ill-treated the Petitioner as alleged. He also denied having any illegal intimacy with one Saraswathi. On the other hand, the Petitioner was always doubtful about the Respondent and compelled him to set up a separate house leaving his joint family with mother and brothers. The Petitioner was not interested in living in a joint family and to take responsibility. Above all, the Petitioner often deserted the matrimonial company and go to her parents house at Bengaluru. On one occasion, after deserting the matrimonial company of the Respondent, the Petitioner sent a



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legal notice dated 10.06.2011 calling him to pay maintenance. A reply was sent by the Respondent repudiating the averments contained therein. When F.C.M.C. No. 15 of 2014 was filed by the Petitioner, he appeared before the Lok Adalat and undertook to live with the Petitioner. However, after few months of stay, the Petitioner once again started quarreling with him demanding a separate residence for their stay. The Petitioner had written several complaints against the Respondent to the superior officers in the Southern Railway and requested to stop all the amount payable to the Petitioner upon his retirement on 30.06.2018. At the instance of the Petitioner, the retirement benefits have been stopped and his reputation has been spoiled by her. The Respondent has already filed F.C.O.P. No. 226 of 2018 against the Petitioner for dissolution of the marriage in which a portion of the property was allotted to her towards her share which is worth Rs.1 crore. Therefore, the Respondent prayed for dismissal of this petition for maintenance.

2.3. Before the Family Court, the Petitioner examined herself as P.W-1 and the daughter born to Petitioner and Respondent was examined as P.W-2. Ex.P-1 to Ex.P-15 were marked. On his side, the Respondent examined himself as R.W-1 and Ex.R-1 was marked. The Family Court, Vellore, taking into consideration the settlement of a portion of the property standing in the name of the Respondent in favour of the Petitioner, which is worth nearly



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Rs.15 lakhs, directed the Respondent to pay a sum of Rs.6,000/- per month as maintenance.

2.4. Aggrieved by the order dated 30.07.2019, the present Criminal Revision case is filed by the Petitioner, seeking enhancement of maintenance.

3. When the Revision Case came up for hearing before the learned Judge of this Court, considering the plight of both parties, the learned Judge referred the matter to Mediation to explore the possibility of a settlement. Subsequently, a report was received from the Mediation Centre that both parties did not arrive at a settlement. Therefore, the case was posted for argument.

4. The learned Counsel for the Petitioner submitted that the Respondent was employed as T.T.E. in Southern Railway and was earning Rs.1,07,942/- per month. He retired on 30.06.2018 and is in receipt of pension to the tune of Rs.50,000/- per month. The Family Court, without taking note of the lump sum amount of terminal benefits to be received by the Respondent directed a sum of Rs.6,000/- to be paid as monthly maintenance. The Family Court did not take note of the sufferings of the Petitioner all along in nurturing the minor daughter single handedly by borrowing huge amount. Above all, the



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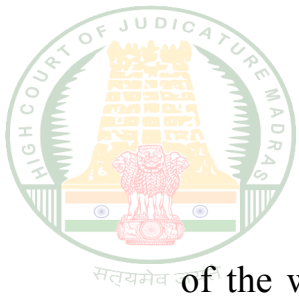
Petitioner crossed the age of 50 years and she require amount for her basic medical expenses. In such event, the amount of Rs.6,000/- directed to be paid by the Respondent can be only considered as a pittance and it cannot be befitting the resourcefulness of the Respondent. Accordingly, the learned Counsel for the Petitioner prayed to direct the employer of the Respondent to pay 50% of the terminal benefits payable by the Respondent to the Petitioner herein towards maintenance, which would meet the ends of justice.

5. Per contra, the learned Counsel for the Respondent/husband in this Revision Petition submitted that the wife was demanding 50% of retirement benefits, whereas he was amenable to pay 30% of the same.

Point for consideration:

Whether the order dated 30.07.2019 passed in FCMC No. 47 of 2018 by the learned Judge, Family Court, Vellore, Vellore District is to be set aside as perverse and the Petitioner is entitled for any enhancement of maintenance amount?

6. On perusal of the materials available, it is found that Rs.6,000/- ordered by the Family Court towards maintenance of the Petitioner is meagre. The Respondent/husband retired as TTR from the Railways. The Respondent/husband, during enquiry, had deposed that he had settled the property in favour



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of the wife but she had disputed such a claim. In cross examination it was deposed that the mother of the Respondent had settled property in the joint name of the wife and husband to protect the interest of the minor daughter born to the Petitioner and the Respondent. Therefore, the Respondent/husband claiming that the property settled in favour of the Petitioner fetches Crores of Rupees is found unacceptable. The evidence of the wife that the property is not worth such a value is found proper. The husband cannot claim exemption from payment of maintenance on the ground that he had settled the property in her favour. To the pointed question in the trial, whether he has furnished any evidence regarding putting up construction in the land allotted to the wife, he was unable to answer. Therefore, the Court can draw the presumption that the wife is getting some income thereof. However, the learned Judge, Family Court ordering Rs.6,000/- per month towards maintenance of the wife is found unacceptable.

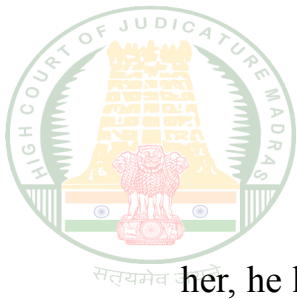
7. As per the materials available in the course of the enquiry before the Family Court, Vellore, the marriage between the Revision Petitioner and the Respondent was an arranged marriage. As per the claim of the Respondent/husband, the Petitioner/wife left the matrimonial home on her own volition. As per the Petitioner/wife, she was driven out of the matrimonial



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home when she questioned the relationship of the Respondent with one Saraswathi, prior to the marriage. She had clearly mentioned it in the Petition for maintenance as well as her evidence. In support of her claim, the daughter was examined as P.W-2. P.W-1 had also claimed in the evidence that the daughter's education and expenses were met by her mother's family and the daughter was married. Also, the husband in the counter statement claims that marriage of the daughter was performed without intimation to him and it caused mental agony to him. Considering the fact that the husband had not acted as a dutiful husband and responsible father, he cannot be expected to be invited to the marriage of the daughter especially when he was living with a paramour. Such a statement was made only to avoid maintenance to the Petitioner-wife. The wife, when confronted in cross examination, claimed that she had informed the marriage of the daughter to the elders in the family of the husband, prior to the marriage, but the husband did not attend the marriage.

8. When the matter is pending in Revision, it was referred to Mediation, where the wife demanded 50% of the retirement benefits to be settled in her favour. The claim of the husband that he is ready to settle the matter amicably with 30% of the retirement benefit is found unacceptable. Considering the fact that the husband is living with one Saraswathi, through



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her, he has three children, the difficulties expressed by the learned Counsel for the Respondent/husband are found justified. At the same time, he cannot demand that he will give only 30% to the wife. Therefore, in the interest of justice will be met by directing the Respondent to settle 40% of the terminal benefits in favour of the Petitioner-wife and the balance 60% can be paid to the Respondent/Husband. Accordingly, the General Manager, Southern Railway is directed to disburse the retirement benefits payable to the Respondent herein, in the ratio of 60% to the employee-husband and 40% to the Petitioner herein, who is the wife.

9. In the light of the above discussion, the Point for Consideration is answered in favour of the Revision Petitioner and against the Respondent.

In the result, **this Criminal Revision case is allowed to the extent indicated above.** The Order dated 30.07.2019 passed in FCMC No. 47 of 2018 on the file of the Family Court, Vellore, Vellore District is modified.

03.03.2025

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Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order



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SATHI KUMAR SUKUMARA KURUP, J

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To

1. The Judge,
Family Court,
Vellore
2. The General Manager
Southern Railway
Park Town, Chennai – 600 003.
3. The Section Officer,
Criminal Section,
High Court,

Order made in
Crl.R.C. No.1205 of 2019



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