



WEB COPY



Crl.R.C.No.2170 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.04.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.2170 of 2024
and
Crl.M.P.No.17108 of 2024

T.K.Sivakumar, S/o T.S.Kanniappan
Vs.

.. Petitioner

1. Mrs.P.Revathi, W/o T.K.Sivakumar
2. Sharmila, D/o T.K.Sivakumar, rep. by her
mother and natural guardian

..

Respondents

Criminal Revision Case filed under Sections 438 and 442 of the Criminal Procedure Code to set aside the order dated 04.10.2024 passed in M.P.No.552 of 2021 in M.C.No.71 of 2013 on the file of the VI Additional Principal Judge, Family Court, Chennai, with costs.

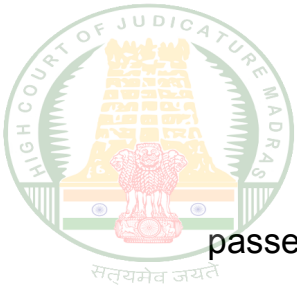
For petitioner : M/s.R.Lokeshwaran

For respondents: Mr.C.R.Malarvannan

ORDER

The revision petitioner is challenging the order dated 04.10.2024

Page No.1/7



CrI.R.C.No.2170 of 2024

passed by the IV Additional Principal Family Court, Chennai, in and by

WEB COPY which, it was directed as follows:

In the result, the petition is partly allowed and the respondent is directed to pay the enhanced maintenance for the 1st petitioner from Rs.5,000/- to Rs.10,000/- per month and for the 2nd petitioner from Rs.2,000/- to Rs.10,000/- per month towards the enhanced maintenance from the date of filing the present petition. The respondent is directed to pay the arrears within 3 months from today."

2. Learned counsel for the revision petitioner/husband submitted that originally, the first respondent-wife earlier filed M.C.No.71 of 2013 and the Family Court initially ordered a sum of Rs.5,000/- per month to the first respondent herein (wife) and Rs.2,000/- to the second respondent herein (minor daughter). It is stated now that the second respondent/daughter has attained majority and she has filed a suit for partition, which is stated to be pending.

3. It is further stated by the learned counsel for the revision petitioner that the wife (first respondent) is a B.Com graduate and she is able to

Page No.2/7



CrI.R.C.No.2170 of 2024

maintain herself. The revision petitioner/husband is not having any income except 2 acres of land in the agricultural field and that with the income from agriculture, he has to maintain his old age parents also. Though initially, the Court below ordered Rs.5,000/- and Rs.2,000/- as maintenance to the wife and minor daughter (as on that date), respectively, the revision petitioner/husband has not challenged the same and as a dutiful husband, the father (revision petitioner) is paying the amount of maintenance to them. But all of a sudden, the wife filed a petition for enhancement of maintenance. Though the Family Court passed ex-parte order earlier on 17.10.2023 in M.P.No.552 of 2021 in M.C.No.71 of 2013, enhancing the total maintenance from Rs.7,000/- to Rs.16,000/-, the revision petitioner has filed a petition to set aside the ex-parte order and later contested the maintenance petition in M.P.No.552 of 2021 in M.C.No.71 of 2013. After enquiry, the learned Family Judge enhanced the maintenance amount, which is not proportionate to the earning capacity of the revision petitioner/husband.

4. Though learned counsel for the first respondent/wife submitted that the revision petitioner/husband is a landlord and he is having agricultural land(s) and earning out of the same, but he has suppressed

Page No.3/7



CrI.R.C.No.2170 of 2024

the income and 7 years before, the Court ordered maintenance as Rs.5,000/- p.m. and Rs.2,000/- p.m, to the wife and the then minor daughter, but after 7 years, considering the price index and also the cost of living, they were unable to maintain with the amount of maintenance of Rs.7,000/- and therefore, the wife and minor daughter had filed M.P.No.552 of 2021 in M.C.No.71 of 2013 for enhancement of maintenance. The Family Court rightly considered the materials available on record and ordered enhancement of compensation and therefore, there is no merit in the revision petition.

5. Admittedly, the revision petitioner is the husband and the first respondent herein is the wife and the second respondent herein is their daughter and they are living separately. Therefore, the first respondent/wife and the second respondent/daughter filed M.C.No.71 of 2013, and at that time, the Court passed an order of maintenance of Rs.5,000/- to the wife and Rs.2,000/- to the minor daughter. Later, when they have filed a petition for enhancement of maintenance, the Family Court enhanced the maintenance from Rs.5,000/- to Rs.10,000/- per month to the first respondent/wife and Rs.2,000/- to Rs.10,000/- per month to the minor daughter.

Page No.4/7



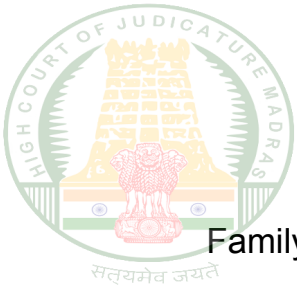
CrI.R.C.No.2170 of 2024

WEB COPY 6. It is to be noted that the proceedings under Section 125 Cr.P.C.

are summary in nature and considering the scope and object of Section 125 Cr.P.C., it is clear that when the wife is unable to maintain herself, she is entitled to get maintenance from the husband, whereas, admittedly, the husband is an agriculturist and the wife is a B.Com graduate. However, originally, the Family Court ordered Rs.5,000/- to the wife and the wife had not stopped with that and she has filed enhancement petition and she being a B.Com graduate, is able to maintain herself. Therefore, the order of maintenance as ordered by the Family Court to the wife, is liable to be set aside. However, the maintenance ordered by the Family Court to the minor daughter is reasonable, as she is aged now about 21 years and the order of maintenance of Rs.10,000/- per month, is meagre to the wife. Though the revision petitioner/husband stated that the daughter has filed a separate suit for partition, till she gets final decree in the said suit, and takes the possession of the property with metes and bounds or till she gets married, the revision petitioner is liable to pay the amount of maintenance to the daughter also.

7. Therefore, enhancement of maintenance for the wife, by the

Page No.5/7



CrI.R.C.No.2170 of 2024

Family Court alone is set aside. The revision petitioner/husband is directed to continue to pay Rs.5,000/- now being reduced from Rs.10,000/- , considering her educational qualification and the enhancement of maintenance for the then minor daughter, as ordered by the Family Court is unaltered.

8. As far as the arrears of maintenance, if any, is concerned, to be paid to the respondents, the same shall be paid expeditiously.

9. With the above modification, this revision petition is disposed of. Consequently, the miscellaneous petition is closed.

07.04.2025

CS

To

1. The IV Additional Principal Judge, Family Court, Chennai.
2. The Section Officer, Criminal Section (Records), High Court, Madras.

Page No.6/7



WEB COPY



Crl.R.C.No.2170 of 2024

P.VELMURUGAN, J

CS

Crl.R.C.No.2170 of 2024

07.04.2025

Page No.7/7