

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2004.

CORAM:

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

CRIMINAL REVISION CASE No.1248 OF 2004.

S.Suresh

... Petitioner

Vs.

Vishnu Shree
Minor rep.by mother
Kanchana

... Respondent

* * *

Criminal Revision Petition filed under Sections 397 and 401 of the Code of Criminal Procedure praying for the relief as stated therein.

* * *

For petitioner : Mr.T.Arulraj
For respondent : Mrs.A.Arulmozhi

* * *

O R D E R

The above Criminal Revision Case is filed against the order dated 23.6.2004 made in M.C.No.263 of 2004 by the Court of I Additional Family Judge, Chennai.

2. On a perusal of the materials placed on record and upon hearing the learned counsel for both, it comes to be known that the respondent is the minor daughter of the petitioner through one Kanchana, who is living separately from the petitioner on account of some differences between them. It further comes to be seen that the respondent herein, through her mother, has filed the petition in M.C.No.263 of 2004 before the Court below under Section 125 Cr.P.C. praying to award a monthly maintenance of Rs.5,000/= and since during the course of enquiry, both the parties have arrived at a compromise and consented for a monthly maintenance of Rs.500/= to be paid by the petitioner herein to his minor daughter, the Court below has passed a consenting order thereby directing the petitioner herein to pay the agreed sum of Rs.500/= per month towards the monthly maintenance of the minor

from the date of the petition i.e. from 31.5.2004. It is only aggrieved against the said consent order passed by the Court below, the petitioner has come forward to file the above Criminal Revision Case.

3. The petitioner would submit that the respondent, in para 10 of her petition before the Court below, has submitted that previously she filed M.C.No.167 of 2004 for maintenance and since the same was dismissed for default on 17.5.2004, she has come forward to file the present Maintenance Case and therefore, the Court below ought to have dismissed the present Maintenance Case as barred under Section 300 Cr.P.C.; that even on facts, the learned Judge of the Court below, without giving opportunity to oppose the application, has recorded something on the same date of appearance of the petitioner and obtained his signature thereon and on the very next day, he has passed orders fixing maintenance at Rs.500/= per month when the petitioner's contention is that the respondent is not entitled to get any maintenance for the daughter as his wife and self-styled guardian of the minor since she is voluntarily and wilfully living away from the petitioner.

4. It is painful to note that the petitioner having consented for a maintenance of Rs.500/= to be paid to his minor daughter, is making frivolous allegations against the learned Judge of the Court below that 'the learned Judge without giving opportunity to oppose the application, recorded something on the same date of appearance of petitioner, obtained his signature thereon and very next day he has passed orders...'. This sort of attitude of the petitioner is to be deprecated since the same is ridiculous and to mar the dignity of the process of Court. If at all, the petitioner was having any objection in passing the order, he should not have consented for the same to be passed by the Court below. Having allowed the matter to be ordered by consent, the petitioner is making baseless and frivolous allegations against the Presiding Officer.

5. The order of the Court below is clear to the effect that the petitioner and his wife have compromised and also deposed before the Court as R.W.1 and P.W.1 respectively to order a monthly maintenance of Rs.500/= to the minor daughter of the petitioner. In such circumstances, this Court is able to understand that only to get over the consent decree, the petitioner is making such frivolous allegations against the Presiding Officer and this Court is unable to find any reason to cause its interference into such of the findings arrived at by the Court below and the above Criminal Revision Case is, therefore, liable only to be dismissed.

In result,

(i) for all the above discussions held, the above criminal revision case is dismissed.

(ii) The order dated 23.6.2004 made in M.C.No.263 of 2004 by the Court of I Additional Family Judge, Chennai is hereby confirmed.

No costs.

Consequently, Crl.M.P.No.8042 of 2004 is also dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

Rao

To

The Presiding Officer,
Family Court,
Chennai.

1 cc to Mr. A. Arulmozhi, Advocate SR. No. 52145

Order in Crl.R.C.No.1248/2004
and Crl.M.P.No.8042/2004.

JP (CO)
kk 23.12.04

सत्यमेव जयते

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