

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.198 of 2021
and Crl.M.P.No.4709 of 2021

Navira Krishnan (Minor)
Rep.by her Natural Guardian Mother
Mrs.P.Jayabharathy ... Petitioner

..vs..
S.N.Venkatakrishnan ... Respondent

Criminal Revision Case filed under Section 397 and 401 Cr.P.C, to set aside the order passed by the learned VI Additional Family Court Judge, Chennai in M.C.No.453 of 2018 dated 22.12.2020 to the extent of the maintenance awarded of Rs.5,000/- to the petitioner and direct the respondent to pay the enhanced maintenance of Rs.12,500/- to the petitioner from the date of filing the petition.

For Petitioner : Mr.S.Saravanan

For Respondent : Mr.V.Kannadasan

ORDER

This Criminal Revision Case has been filed against the order dated 22.12.2020 in M.C.No.453 of 2018 passed by the learned VI Additional Principal Judge, Family Court, Chennai.

2.The learned counsel for the petitioner would submit that the petitioner is a minor child represented by her mother viz., Mrs.P.Jayabharathy. The respondent is the father of the petitioner. The marriage between the petitioner's mother and the respondent was solemnized on 16.6.2016 and out of their wedlock, the petitioner herein born on 11.07.2017. Subsequently, the parents of the petitioner were living separately and the petitioner is under the care and custody of her mother. The respondent/father is an employee of Southern Railways as Engineer and he is earning more than one lakh per month and the respondent was not taking care of his child. Hence, the mother of the petitioner/minor child filed a petition in M.C.No.453 of 2018 under Section 125 Cr.P.C before the learned VI Additional Principal Judge, Family Court, Chennai seeking maintenance of Rs.12,500/- per month.

However, the learned Judge, without considering the cost of living prevailing as on date ordered Rs.5,000/- per month as maintenance. Challenging the same, the petitioner filed the present petition seeking enhancement of the award amount.

3.The learned counsel for the respondent would submit that the mother of the petitioner filed a petition under Domestic Violence Act and also receiving Rs.15,000/- per month as interim maintenance to herself and the minor child. Subsequently, the petitioner filed a maintenance case in M.C.No.453 of 2018 and the leaned Judge, ordered Rs.5,000/- per month as maintenance to the petitioner. He would further submit that the petitioner's mother has voluntarily left the matrimonial home, the respondent is ready to take care of his child. Hence, he objects to enhancement of the maintenance amount.

4.Heard the learned counsel for the petitioner and the learned counsel for the respondent and also perused the materials available on record.

5. Admittedly, the paternity of the petitioner/minor child is not in dispute. The ingredients of Section 125 of Cr.P.C clearly shows that the child who is unable to maintain herself is entitled for maintenance. In the present case, the petitioner is under the care and custody of her mother and she does not have any independent income to maintain herself and also her minor child. The respondent/father has not established the fact that the petitioner and her mother are having sufficient income to maintain themselves. The learned Judge failed to consider the cost of living prevailing as on date and ordered only Rs.5,000/- per month as maintenance to the petitioner, which is not sufficient for the child.

6. In the light of the above facts and circumstances, this Court is inclined to modify the order dated 22.12.2020 in M.C.No.453 of 2018 passed by the learned VI Additional Principal Judge, Family Court, Chennai, to the effect that the maintenance amount Rs.5,000/- per month ordered by the Court below to the petitioner is enhanced to Rs.20,000/- per month from the date of filing of the above case.

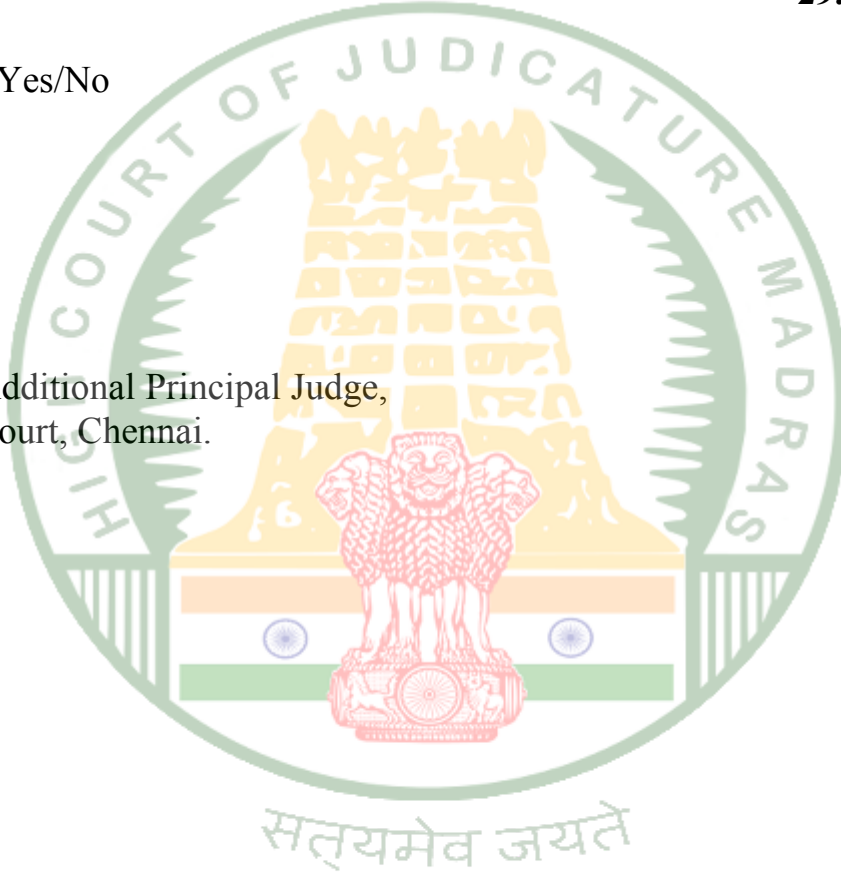
7.With the above observation, this Criminal Revision Case is allowed. Consequently, connected miscellaneous petition is closed.

29.04.2021

Internet: Yes/No
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To

The VI Additional Principal Judge,
Family Court, Chennai.

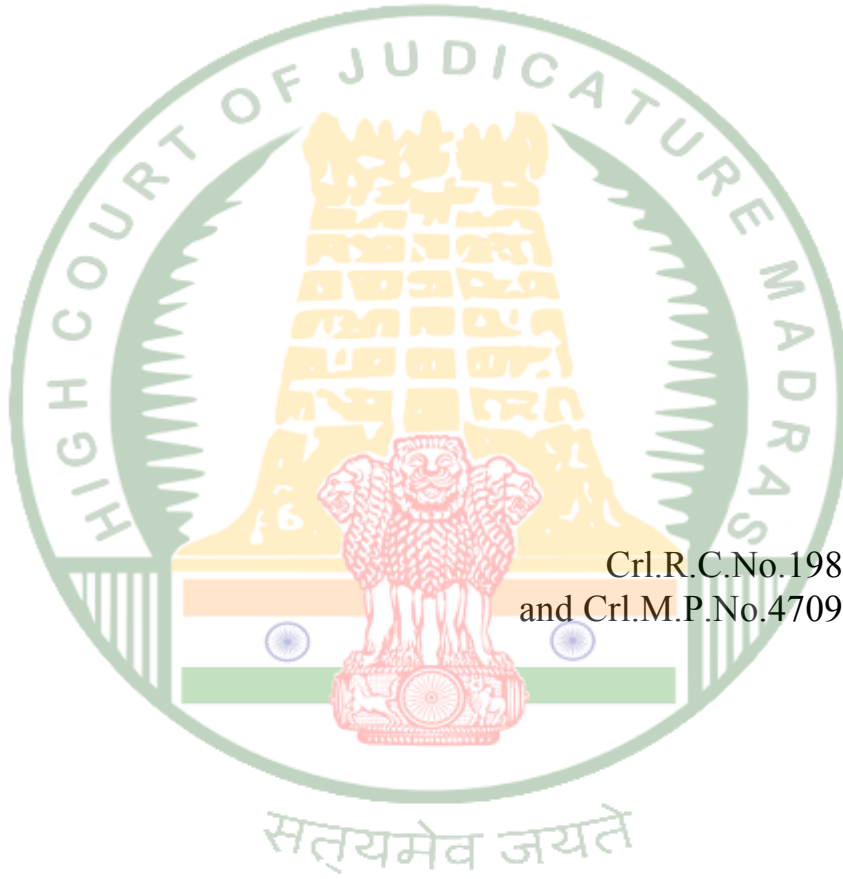


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P.VELMURUGAN, J.

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