

Rajamani Vs. Renugadevi and Others

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Court : Chennai Madurai

Decided On : Jun-20-2016

Judge : The Honourable Dr. Justice P. Devadass

Appeal No. : Crl.R.C.(MD)No. 549 of 2015

Appellant : Rajamani

Respondent : Renugadevi and Others

Judgement :

(Prayer: Criminal Revision Petition filed under Sections 397 r/w 401 Cr.P.C., praying call for the records from the learned Family Judge, Dindigul in M.C.No.51 of 2014, dated 21.08.2015 and set aside the same.)

1. Challenging the grant of maintenance at the rate of Rs.5,000/- per month, to the respondents 1 to 3 in M.C.No.51 of 2015 ordered by the learned Judge, Family Court, Dindigul, this revision has been filed by the petitioner/husband.
2. The respondents 1 to 3 are the revision petitioner's wife and sons respectively. He is employed in Border Security Force(BSF). He is guarding the border, but it is alleged that he has not maintain his family. This matter was adjudicated by the learned Family Court Judge, Dindigul.
3. Both sides have not filed the salary receipt of the revision petitioner. Based on the admission of RW1 to the effect that he is receiving Rs.29,000/- per month, the

learned Judge, Family Court, Dindigul, directed the BSF Jawan to pay Rs.5,000/- p.m. each to the respondents 1 to 3.

4. According to the learned counsel for the revision petitioner, after all the deductions, the revision petitioner is actually receiving a very less amount. He has to take care of his other family members also. Although, Rs.15,000/- p.m. has been ordered, the pay disbursing officer is deducting Rs.17,516/-p.m., based on the representation of the first respondent/wife. Further, admittedly respondents 2 and 3 are aged 5 years and 1 year old, respectively. When for the first respondent, who is an adult Rs.5,000/-p.m. has been awarded, regardless of their age, R2 and R3 each were also awarded very same amount. When comparing with the net salary received by the revision petitioner, what was ordered by the Trial court is excessive. It is also beyond the financial capacity of the revision petitioner.

5. On the other hand, the learned counsel for the respondents would submit that on the admission of the revision petitioner, the order has been passed by the Trial Court. What was granted by the Court itself is not sufficient.

6. I have considered the rival submissions, perused the impugned order, the materials on record and the latest pay slip.

7. The respondents are living in Dindigul. The first respondent is an adult woman, her children are respondents 2 and 3. No doubt R2 and R3 are very young, by no means, their expenses cannot be stated to be less.

8. The revision petitioner is employed in BSF. Generally, he is eligible for free ration and free boarding and lodging. He is also eligible to get the benefit of military canteen facility. In the military canteen, consumable items are given to him at a subsidised rate. The revision petitioner is a Central Government servant. He has eligible for 2 half early D.A.s and one annual increment regularly.

9. Sometimes husbands suffers deductions from their salary for the benefit of the family. Sometimes, they suffer more deduction willingly, when the wife and children files maintenance cases.

10. The Court must take into account, the paying capacity of the husband. The amount awarded by the Family Court, Dindigul is based on the admission made by the revision petitioner himself. In the circumstances, we will maintain the maintenance order.

11. In the circumstances, this revision fails and it is dismissed. It is made clear that the Commanding Officer, No.931/93, Field, Regiment(ARMY), APS PIN-925 793 shall deduct only Rs.15,000/- per month, as per the Court order and send the deducted amount to the first respondent.

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