(2011) 02 MAD CK 0460

Madras High Court

Case No: Criminal R.C. No. 1620 of 2005

S.K. Manickam		APPELLANT
	Vs	
Pragadeesan and Divyasree rep. by their and natural guardian Smt. Sambunayagi		RESPONDENT

Date of Decision: Feb. 3, 2011

Citation: (2011) 02 MAD CK 0460

Hon'ble Judges: K.B.K. Vasuki, J

Bench: Single Bench

Advocate: N. Damodaran, for the Appellant; K.K. Ananthapadmanaban, for N.S. Sivakumar, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

K.B.K. Vasuki, J.
The Petitioner herein who is the father of the minor children filed this revision against the award of maintenance to school going minor children aged about 10 years and 8 years respectively.

2. For the purpose of convenience the parties are referred to as per their rank in the trial court.

3. The mother on behalf of herself and children came forward with the maintenance case for directing the Respondent/father to pay Rs. 2,500/-per month as monthly maintenance to herself and to her two minor children. The trial court dismissed the petition, in so far as the wife is concerned and awarded maintenance to the minor children. Hence, this criminal revision by the Respondent/father.

4. The facts that the Respondent, got married to the 1st Petitioner on 25.01.1993 and the first Petitioner gave birth to the Petitioners 2 and 3 in the course of their wedlock and thereafter misunderstanding arose between the parties and the first Petitioner along with her children on one hand and the Respondent have been living separately from July 1997 and the Respondent has till date of M.C. not taken any steps either for the custody or for visitation rights of the children and has not made any efforts to send any amount for the maintenance of the children are not denied.

5. The Respondent/father was admittedly during the relevant point of time working in Vishva English medium school for decent salary and the contention raised on the side of the Respondent/father that he resigned his job and left the institution is not proved on his side.

6. The trial court after considering the respective contention raised on both sides and having found that the first Petitioner is employed for monthly salary of Rs. 3,300/-and the same is not sufficient enough to maintain herself and her minor children rejected the claim of the mother for her maintenance but awarded maintenance at the rate of Rs. 2,000/- per month for the children.

7. The learned Counsel for the father, would challenge the correctness of the order on the ground that the mother has without sufficient reason taken away the custody of the children and he is always ready and willing to take back the children and to maintain them. Such contention raised on the side of the father, in my considered view is made only for the purpose of this case to avoid payment of maintenance to the minor children. Had he really been bonafide in his contention he would have taken some steps either to take the custody of the children or to send some amount for the maintenance of the children. The children are through out in the custody of the mother who finds its difficult to meet out family and educational expenses of children with her meager income and the trial court has rightly awarded maintenance to the minor children and the quantum of maintenance awarded is also but reasonable. Hence, this Court finds No. irregularity or infirmity in the order of the trial court.

8. In the result, the criminal revision is dismissed and the father is directed to pay arrears of maintenance as on date within one month from the date of receipt of the copy of this order and to pay the future maintenance on or before 7th of every succeeding month without fail.