

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.600 OF 2017
(@S.L.P.(Crl.)No.3157 OF 2016)

D. VEERALAKSHMI & ANR. ... APPELLANT(S)

VS.

C. DURAISAMY ... RESPONDENT(S)

O R D E R

1. Heard learned counsel for the rival parties.
2. Leave granted.
3. The impugned order adjudicates a maintenance claim raised by the appellants before this Court (from the respondent). Appellant No.1 is the wife of the respondent, and Appellant No.2 is his daughter.
4. Even though, the parties were married on 29.01.1975, the claim for maintenance was raised 34 years thereafter. The Family Court, Erode District, by an order dated 09.07.2014, considered it fit and appropriate to grant maintenance to the wife and daughter at the rate of Rs.4,000/- (Rupees Four Thousand only) each, per month. The determination rendered by the Family Court, was assailed by the respondent-husband, before the High Court of Judicature at Madras (hereinafter referred to as the "High Court"), by filing Crl.R.C.No.954 of 2014. The matter came to be disposed of by the High Court on

14.12.2015. The order passed by the High Court on 14.12.2015, has been assailed by the wife and daughter of the respondent respectively. It would be relevant to mention, that by the impugned order, the High Court found the wife D. Veeralakshmi as not entitled to any maintenance, whereas, the maintenance to the daughter-Muthuselvi was reduced to Rs.3,000/- (Rupees Three Thousand only), per month.

5. It is apparent from the pleadings of the case, as well as the impugned order passed by the High Court, that the proceedings for claiming maintenance at the hands of the appellants has not been an easy task, inasmuch as, the respondent in the first instance denied any relationship with his daughter-Muthuselvi. It is only when the DNA test was conducted, the relationship came to be scientifically determined.

6. The question, that arises for consideration before this Court is, whether it was just and proper for the High Court, to have negated the claim of Appellant-D. Veeralakshmi, for any maintenance whatsoever. Having given our thoughtful consideration to the issue in hand, we are satisfied, that in the absence of any material produced by the respondent, to demonstrate that the Appellant-D. Veeralakshmi, was in a position to sustain herself, it was wholly improper for the High Court to have negated the maintenance, found payable by the Family Court to Appellant-D. Veeralakshmi. We therefore, hereby set aside

the determination rendered by the High Court with reference to Appellant-D. Veeralakshmi.

7 It is also relevant to mention, that while adjudicating the claim for maintenance, with reference to Appellant-Muthuselvi, i.e., the daughter of the respondent, the High Court reduced the maintenance payable to her from Rs.4,000/- to Rs.3,000/- (Rupees Three Thousand only) per month. Here again, we find no justification in the impugned order passed by the High Court depicting the basis of reducing the maintenance from Rs.4,000/- to Rs.3,000/- per month. We accordingly, set aside the interference, with regard to the maintenance amount payable to the daughter of the respondent, i.e., Appellant No.2-Muthuselvi, by the High Court.

8. For the reasons recorded hereinabove, the impugned order passed by the High Court, is set aside. We hereby restore the order of maintenance passed by the Family Court, Erode District, dated 09.07.2014. The entire balance of amount of maintenance payable to the appellants, shall be honoured by the respondent, within six weeks from today. Needless to mention, that the respondent will be entitled to adjust/deduct payments (if any) already tendered towards maintenance (to the appellants), by the respondent.

9. The appeal is allowed in the above terms.

.....CJI.
[JAGDISH SINGH KHEHAR]

.....J.
[SANJAY KISHAN KAUL]

New Delhi;
28th March, 2017.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s).3157/2016

(Arising out of impugned final judgment and order dated 14/12/2015
in CRLRC No.954/2014 passed by the High Court Of Madras)

D. VEERALAKSHMI & ANR.

Petitioner(s)

VERSUS

C. DURAISAMY

Respondent(s)

(With office report)

Date : 28/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

For Petitioner(s) Mr. M.P. Srivignesh,Adv.
Ms. Usha Nandini. V,Adv.For Respondent(s) Mr. S. Nanda Kumar,Adv.
Mr. Parivesh Singh,Adv.
Mr. M.S. Saran Kumar,Adv.
Mr. P. Srinivasan,Adv.
Mr. Ram Dhan Singh Narwal,Adv.
For Mr. Naresh Kumar,Adv.UPON hearing the counsel the Court made the following
O R D E RThe appeal is allowed in terms of the signed order.
Pending application, if any, stands disposed of.(Sarita Purohit)
Court Master(Renuka Sadana)
Assistant Registrar

(Signed order is placed on the file)