

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2015

CORAM

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

CRL.REVISION CASE NO.1267 OF 2014 AND

M.P.NO.1 OF 2014 AND

CRL.R.C.NO.163 OF 2015 AND

M.P.NO.1 OF 2015

CRL.R.C.NO.1267 OF 2014

Lakshmanan

.. Petitioner/Appellant

vs

Kanimozhi

.. Respondent/Respondent

Revision Petition filed under Sections 397 read with Sec. 401 of Cr.P.C. against the order dated 10.10.2014 made in Crl.A.No.7 of 2014 on the file of the II Additional Sessions Judge, Puducherry in modifying the order dated 29.01.2014 made in Crl.M.P.No.7380 of 2012 in M.C.21 of 2012 on the file of the Judicial Magistrate No.II, Pondicherry.

For Petitioner

:

No appearance

For Respondent

:

Mr.J.Zeakumar

for M/s.Achari & Antoni Associates

CRL.R.C.NO.163 OF 2015

Kanimozhi

.. Petitioner/Respondent

vs

Lakshmanan

.. Respondent/Appellant

Revision Petition filed under Sections 397 read with Sec. 401 of Cr.P.C. against the order dated 10.10.2014 made in Crl.A.No.7 of 2014 on the file of the II Additional Sessions Judge, Puducherry in modifying the order dated 29.01.2014 made in Crl.M.P.No.7380 of 2012 in M.C.21 of 2012 on the file of the Judicial Magistrate No.II, Pondicherry.

For Petitioner : Mr.J.Zeakumar
for M/s.Achari & Antoni Associates

For Respondent : No appearance

COMMON ORDER

Since the subject matter of both the revisions and the parties are one and the same, they are heard together and are disposed of by this Common Order.

2. The petitioner in Crl.R.C.No.1267 of 2014 is the respondent in Crl.R.C.No.163 of 2015 whereas the respondent in Crl.R.C.No.1267 of 2014 is the petitioner in Crl.R.C.No.163 of 2015. They are husband and wife.

3. Both these revisions are filed against the order dated 10.10.2014 made in Crl.A.No.7 of 2014 on the file of the learned II Additional Sessions Judge, Puducherry in modifying the order dated 29.01.2014 made in Crl.M.P.No.7380 of 2012 in M.C.21 of 2012 on the file of the Judicial Magistrate No.II, Pondicherry.

4. When the matter was posted on 14.07.2015, the learned Counsel for the petitioner-wife in Crl.R.C.No.163 of 2015 submitted that the conditional order passed by this Court in Crl.R.C.No.1267 of 2014 dated 27.01.2015 has not been complied with by the respondent-husband and there was also no representation for the petitioner-husband in Crl.R.C.No.1267 of 2014. Therefore, both the Criminal Revisions were ordered to be posted today under the caption, 'for dismissal'. Even today, there is no representation on behalf of the petitioner-husband in Crl.R.C.No.1267 of 2014. Hence, this Court is left with no other option except to dispose of the revisions on merits as per the judgment of the Hon'ble Apex Court reported in (2013) 3 SCC 721 [K.S.Panduranga vs. State of Karnataka] wherein it is stated that if the petitioner does not appear, there is no necessity for the Court, which is hearing the matter, to issue warrant for special notice or appoint any Amicus Curiae to argue the matter on behalf of the petitioner.

5. For the sake of convenience, the petitioner in Crl.R.C.No.1267 of 2014 is referred as petitioner and the respondent in Crl.R.C.No.1267 of 2014 is referred as respondent in this Order.

6. The crux of the revisions is as follows:

The petitioner and the respondent got married on 23.5.2004 and out of their wedlock, two daughters were born to them. Due to some matrimonial dispute between the parties, they are living separately and the children are with the respondent. Therefore, the respondent

wife has filed M.C.No.21 of 2012 seeking maintenance and also filed Crl.M.P.No.7380 of 2013 in M.C.No.21 of 2012 seeking interim maintenance at Rs.10,000/- each to the petitioner and her two daughters. Taking into consideration the available materials, the learned Judicial Magistrate No.II, Puducherry allowed the said petition and directed the petitioner husband to pay a sum of Rs.9,000/- per month to the petitioner and their children towards interim maintenance. Aggrieved over the same, the petitioner husband filed Crl.A.No.7 of 2014 on the file of the learned II Additional Sessions Judge, Puducherry and he has also filed Crl.M.P.No.73 of 2014 seeking an order to suspend the execution of the interim maintenance order passed by the trial court till the disposal of the Criminal Appeal. By order dated 5.3.2014, the order of the trial court was suspended till the disposal of the Criminal Appeal. Consequently, the Crl.A.No.7 of 2014 was partly allowed by the learned II Additional Sessions Judge, Pondicherry by setting aside the order passed by the learned Judicial Magistrate No.II, Pondicherry dated 29.01.2014 in Crl.M.P.No.7380 of 2012 in M.C.No.21 of 2012 by directing the petitioner husband to pay a sum of Rs.7,000/- p.m. towards maintenance to the respondent and her two daughters from the date of the order of the lower court dated 29.01.2014. Aggrieved over the same, both the husband and wife are before this Court with these revisions.

7. There is no representation for the petitioner husband as stated above.

8. The learned Counsel for the respondent wife would submit that the maintenance amount awarded by the appellate court is very meagre as she is paying school fees and providing other amenities to their children. The learned Counsel for the respondent would further submit that the petitioner husband is wantonly denying his responsibility towards their children. Hence, the Crl.R.C.No.163 of 2015 has to be allowed and Crl.R.C.No.1267 of 2014 has to be dismissed.

9. On a perusal of the entire records including the judgments of the courts below, it appears that the lower appellate court after taking into consideration of the entire facts and circumstances of the case and also the Domestic Incidents Report submitted by the Protection Officer, has correctly fixed the maintenance at Rs.7,000/- p.m. towards the respondent wife and her two daughters, which in my opinion, is fair, reasonable and correct. Therefore, I do not find any infirmity in the said well considered order of the appellate court which does not warrant any interference at the hands of this Court.

10. In the result, both the Criminal Revision Cases are dismissed with a direction to the petitioner husband to comply with the conditional order passed by this Court in Crl.R.C.No.1267 of 2014 dated 27.01.2015 within a period of one month from today, failing

which, the respondent wife is at liberty to proceed further in accordance with law. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1. The II Additional Sessions Judge, Puducherry.
2. -do- Thro the Principal sessions Judge, Puducherry
3. The Judicial Magistrate No.II, Puducherry.
4. -do- Thro The Chief Judicial Magistrate, Puducherry

+1cc to M/s.Achari & Antoni, Advocate SR 36828

CRL.R.C.NO.1267 OF 2014
AND
CRL.R.C.NO.163 OF 2015

BR (CO)
RS 13.08.2015

सत्यमेव जयते

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