

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 205 of 2010
& M.P.No.1 of 2010

D.Firoz

.. Petitioner/Respondent

Versus

1.Z.Shohila Begaum

2.Minor Mohammed Riaz
rep. by Mother

... Respondents/Petitioners

Criminal Revision Case filed under Sections 397 r/w 401 of Cr.P.C. against the order dated 15.12.2009 made in M.C.No.21 of 2009 on the file of the Chief Judicial Magistrate, Erode.

For Petitioner : Mr.D.Shivakumaran

ORDER

This Criminal Revision has been filed against the order passed by the learned Chief Judicial Magistrate, Erode on 15.12.2009 in M.C.No.21 of 2009.

2. Though notice has been duly served on the respondents, there is no representation for the respondents. Hence, the matter is taken up for final disposal to pass orders on merits as per the decision rendered in K.S.Panduranga vs. State of Karnataka reported in 2013(3) SCC 721

3.The marriage between the petitioner and the first respondent had taken place on 30.11.1997. It is her case that some time after the marriage, petitioner demanded dowry and deserted her. In the meanwhile, she was blessed with a child. Petitioner issued a notice on 27.08.1999 pronouncing 'Talak' and after sometime he got married to another lady and they have got

two children out of the said wedlock. Simply by pronouncing 'Talak' the petitioner had rejected the first respondent and the minor child. Being the mother of the minor child, she is finding it difficult to take of her and her child without any livelihood and hence, she filed a petition before the trial court, under Section 125 (1) of Cr.P.C., seeking maintenance of her and her minor son. After trial, the court below, based on the available evidence partly allowed the petition, whereby, directed the husband/petitioner herein to pay a sum of Rs.1,500/- to the wife and Rs.900/- to the minor child towards maintenance till his life time. Aggrieved by the said order, petitioner/husband has come up with the present revision.

4. Mr.D.Shivakumaran, learned counsel appearing for the petitioner would contend that the first respondent on her own accord went out of the matrimonial house and there is no demand of dowry. He would further state that it is the petitioner who has filed the guardian O.P.No.6 of 2009 and only to harass the petitioner, the first respondent on receipt of notice in the guardian O.P. has filed a petition seeking maintenance. The allegations made by the first respondent are merely vague in nature.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. The petitioner had accepted the marriage between him and the first respondent. The revision petitioner has also not denied the birth of minor child. However, a bare reading of the order of the court below, it is seen that the wife/first respondent had been prevented by the family members from entering into the house. The said factum had been evidenced from the evidence of P.W.1 in the cross examination. Therefore, only after taking into consideration the evidence available on record, the court below had come to the conclusion that the petitioner had demanded money for his business purposes and when the same was not paid, he sent out the first respondent from the house.

7. It is the settled law that husband has got the legal liability to maintain his wife and children even after the order of the divorce petition. The husband is duty bound to give maintenance to the wife and children as ordered by the Courts. In the present case, only a meager amount of Rs.1,500/- per month to the wife and Rs.900/- per month to the child had been ordered by the Court below. Hence, I do not find any illegality or infirmity in the order passed by the courts below.

8. For the foregoing discussions held, this Criminal Revision Case is dismissed and the order dated 15.12.2009 made in M.C.No.21 of 2009 on the file of the Chief Judicial Magistrate, Erode, stands confirmed. Consequently, connected miscellaneous petitions is closed.

-s/d-

Assistant Registrar (CSV)
dt:27/11/2016

True Copy

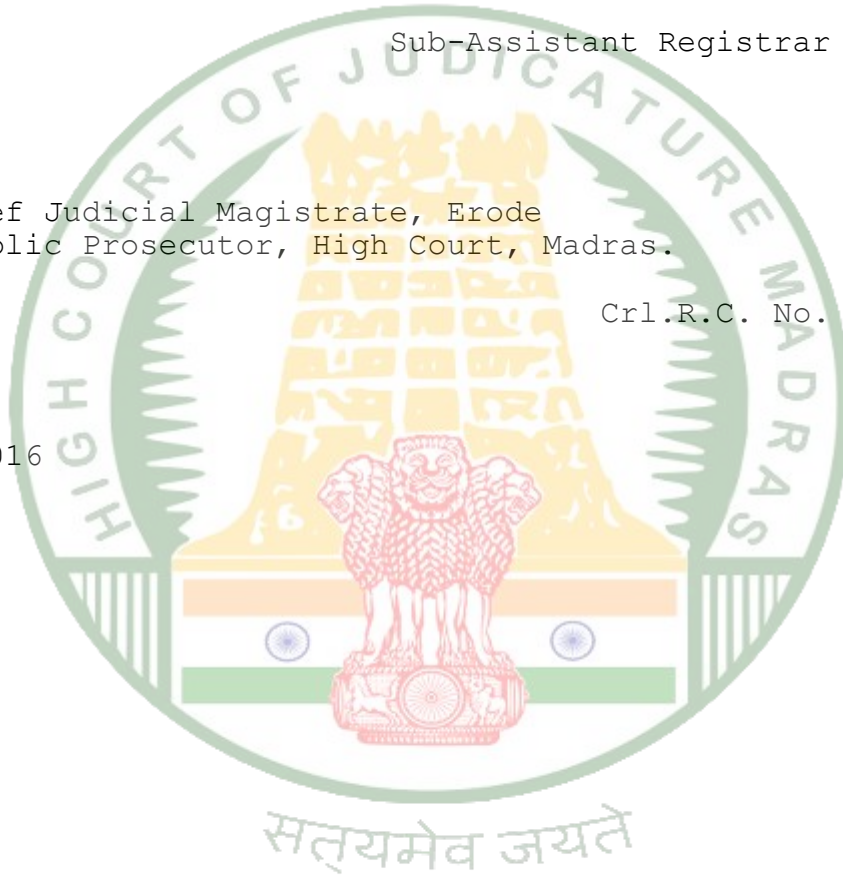
Sub-Assistant Registrar

smi
To

1. The Chief Judicial Magistrate, Erode
2. The Public Prosecutor, High Court, Madras.

Crl.R.C. No. 205 of 2010

pvr (co)
aa28/01/2016



WEB COPY