

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.905 of 2010
and
M.P.No.1 of 2010

Paramasivam

...Petitioner

vs

Pappathi

...Respondent

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the judgment dated 19.05.2010 passed by the learned Additional District Judge (Fast Track Court No.1), Erode in Crl.M.P.No.18 of 2009 in reversing the order dated 03.04.2009 passed by the learned Chief Judicial Magistrate, Erode in M.C.No.57 of 2007.

For Petitioner : No appearance

For Respondent : Mr.S.Dhanasekaran

ORDER

The petitioner has come forward with this Criminal Revision case as against the judgment dated 19.05.2010 passed by the learned Additional District Judge (Fast Track Court No.1), Erode in Crl.M.P.No.18 of 2009 in reversing the order dated 03.04.2009 passed by the learned Chief Judicial Magistrate, Erode in M.C.No.57 of 2007.

2. The brief facts of the case is as follows:

The respondent/wife filed a petition under Section 125 of the Criminal Procedure Code claiming maintenance from the petitioner/husband in a sum of Rs.5,000/- per month till her life time in M.C.No.57 of 2007. However, the said petition was dismissed on the ground that there is no truth in the contention raised as the same has been filed more than 30 years after her separation from the petitioner/husband. Aggrieved over the same, the respondent/wife filed Crl.M.P.No.18 of 2009 and the learned Additional District Judge (Fast Track Court No.1) directed the petitioner/husband to pay a sum of Rs.1,000/- per month as maintenance till her life time from 06.10.2007. Challenging the same, the present revision is filed.

3. According to the petitioner/husband, the respondent/wife has voluntarily left the matrimonial home within a period of one week

from the date of marriage, viz., 06.06.1976; hence, she is not entitled to any maintenance. Moreover, it is stated that the petitioner is now aged 62 years and he is suffering from the old age disease and hence, it may not be possible for him to pay a sum of Rs.1,000/- per month as maintenance to the respondent/wife. It is further contended that merely because he has married for the second time and that the respondent/wife is living alone, maintenance cannot be ordered. Accordingly, he prayed for setting aside the same.

4. Learned Counsel for the respondent/wife would submit that since the respondent was deserted by the petitioner, she is living separately. Even the sum of Rs.1,000/- per month ordered by the Court below is very meagre. Accordingly, he would pray for dismissing this Criminal Revision case.

5. In spite of giving several opportunities to the petitioner, when the matter is taken up today, the petitioner neither appeared in person nor through a counsel. Hence, the case is taken up on merits as per the decision of the Hon'ble Apex Court reported in (2013)3 SCC 721 [K.S.Panduranga vs. State of Karnataka]. Whereas the learned counsel for the respondent/wife is present and argued the matter.

6. Heard the learned counsel appearing for the respondent and perused the materials available on record.

7. The only point raised by the petitioner/husband before this Court is that the Court below erred in ordering maintenance to the respondent/wife after a period of 30 years, as she had left the matrimonial home on her own. However, on a perusal of the judgment passed by the Court below, it is seen that the said order has been passed only after taking into consideration Ex.B4 the Will executed by the petitioner in favour of his second wife bequeathing five acres of land in her favour. It is also seen that the respondent/wife is living alone and has not married any one till date and she is also an aged person.

8. For all the above stated reasons and having regard to the cost of living index the amount of Rs.1,000/- ordered by the Court below as maintenance is very meagre. Therefore, I do not find any reason to interfere with the reasoned order passed by the Court below.

9. Accordingly, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

vj2

To

1. The Additional District Judge
(Fast Track Court No.1),
Erode.

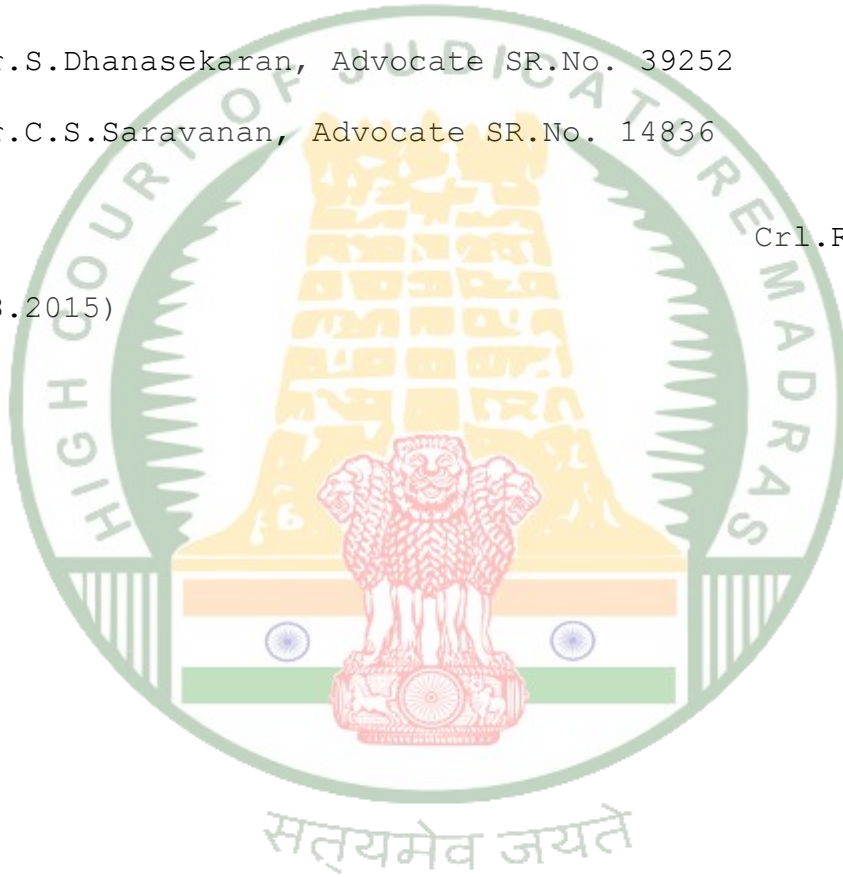
2. The Chief Judicial Magistrate,
Erode.

1 CC to Mr.S.Dhanasekaran, Advocate SR.No. 39252

1 CC to Mr.C.S.Saravanan, Advocate SR.No. 14836

Crl.RC.No.905 of 2010

SKV (CO)
PSI (14.08.2015)



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