

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.6.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Crl.Revision Case No.637 of 2008

&

M.P.No.1 of 2008

P.Jaganathan

.. Petitioner

vs

Valarmathi Jansirani

... Respondent

Revision Petition filed under Sections 397 read with Sec. 401 of Cr.P.C. to call for the records in M.C.No.3 of 2006 on the file of the Chief Judicial Magistrate Court, Thiruvallur and set aside the order dated 12.4.2007 passed therein and thereby dismiss M.C.No.3 of 2006 on the file of the Chief Judicial Magistrate Court, Thiruvallur.

For Petitioner : No Appearance

For Respondent : No Appearance

ORDER

No representation for the petitioner on 14.5.2008 and 22.5.2008. Therefore, the case was admitted on 12.6.2008 and notice was ordered. When the case was taken up for hearing on 08.4.2015, 23.4.2015, 09.6.2015 and 12.6.2015, there was no representation for the petitioner. Therefore, the matter was directed to be listed today under the caption "for dismissal". Even today, there is no representation on behalf of the petitioner. Though the case was admitted as early as on 12.6.2008 and notice was ordered, till date, notice was not served. AOS also not filed. Hence, as per the judgment of the Hon'ble Apex Court reported in (2013) 3 SCC 721 [K.S.Panduranga vs. State of Karnataka], if the petitioner do 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. The Court is empowered to deal with the matter on merits and dispose of the same. Accordingly, this matter is taken up for disposal on merits.

2. The petitioner herein is the husband and the respondent is the wife. The marriage between the petitioner and the respondent was solemnised on 06.9.1999. In the middle of December 1999, the

respondent - wife left the matrimonial home. The petitioner herein filed petition in OP.No.757 of 2000 for restitution of conjugal rights and subsequently, the same was dismissed as not pressed. In the meantime, the respondent lodged complaints before the police against the petitioner and his family members and based on the same, cases were registered under Section 498 A of IPC read with Section 4 of Dowry Prohibition Act and charge sheet has also been filed in C.C.Nos.130 of 2001 and C.C.No.248 of 2001 and subsequently, the petitioner was acquitted in both the cases. The petitioner filed O.P.No.1404 of 2000 seeking divorce and as there was no representation on behalf of the respondent in the said OP, ex parte decree was passed on 07.01.2004. The respondent herein filed Interlocutory Application in I.A.NO.946 of 2004 to set aside the said ex parte decree and the same was allowed with cost of Rs.500/-. While so, the respondent herein filed petition under Section 125 of Cr.P.C., in M.C.No. 3 of 2006 seeking maintenance and the learned Chief Judicial Magistrate, Thiruvallur, by order dated 12.4.2007, directed the petitioner herein to pay a sum of Rs.1000/- towards maintenance. Aggrieved over the said order, the petitioner has preferred this revision.

3. According to the petitioner, false dowry cases have been initiated against him by the respondent and the same were dismissed by the trial Court on merits after due trial. According to him, Ex.A3 and Ex.A4 would clearly establish that the respondent has no intention to live with him and the trial Court misconstruing the Ex.A1 and A2 came to a wrong conclusion in awarding maintenance. It is the case of the petitioner that he had set up separate residence on 12.3.2000 itself and within four days, the respondent had abruptly left the said separate residence and went to her parents house without reasonable cause, which clearly shows the intention of the petitioner to live with the respondent. According to the petitioner, the trial Court, without considering all these facts, has wrongly awarded the maintenance.

4. Since no notice was served by the petitioner, none appears for the respondent.

5. I have perused the entire materials available on record.

6. It is clear that the Court below has categorically pointed out that R.W.1, the petitioner herein, in his evidence has not specifically stated that the respondent wife alone has deserted him and gone to her parents house. Even in the cross examination, nothing has been made out insofar as the alleged claim that she is living separately on her own volition. Further, the Court below has categorically pointed out that the revision petitioner himself, in his cross examination, has admitted that he has married another lady without the consent and knowledge of the first wife/respondent. Since the petitioner is living with another woman, that alone will be a reasonable cause for the wife to live separately. Therefore, the Court below came to a conclusion that the petitioner husband has to

maintain the respondent wife and rightly fixed a sum of Rs.1,000/- towards maintenance, which is very reasonable. Therefore, I do not find any reason to interfere with the reasoned order of the Courts below.

In the result, this Criminal Revision Case is dismissed. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

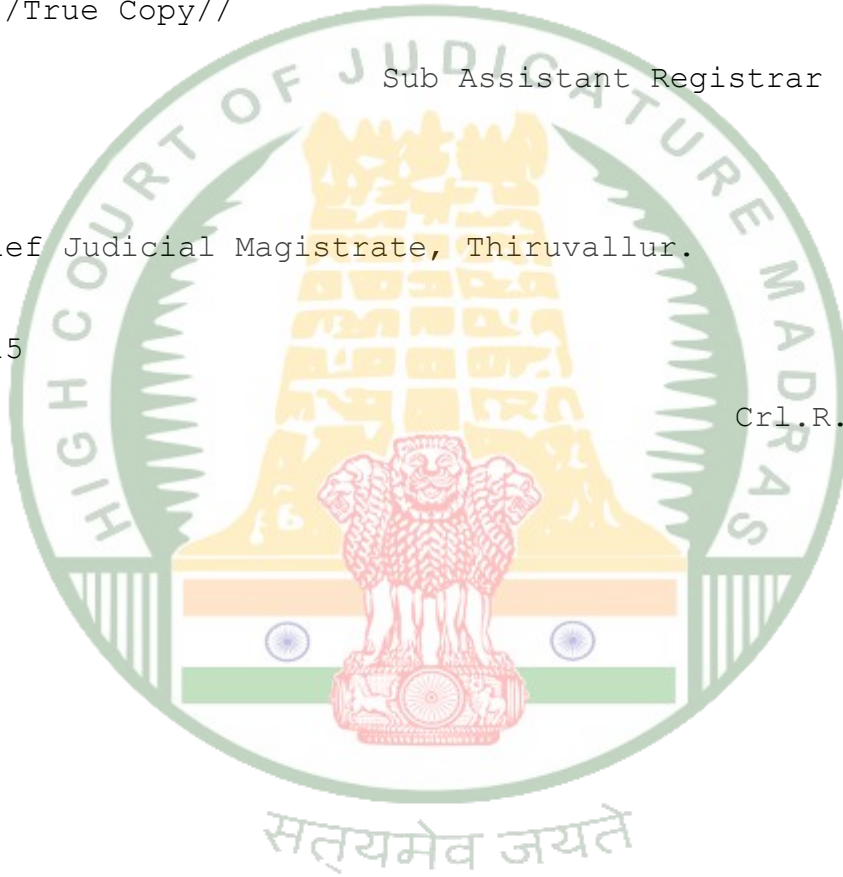
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To

1. The Chief Judicial Magistrate, Thiruvallur.

SAI (CO)
EU 08.07.15

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