

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.10.2015

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THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Petition No.664 of 2013
and
MP.No.1 of 2013

P.Shanmugam ... Petitioner

Versus

1. J.Uma maheswari
2. Minor S.Karthika
3. Minor S. Sethu Sivaraman ... Respondents

Criminal Revision petition filed under Section 397 and 401 of Cr.P.C. to call for the records in M.C.No.277 of 2009 on the file of the 1 Additional Family Court, Chennai and set aside the order passed in M.C.No.277 of 2009 dated 20.2.2013 and allow the above Criminal Revision Case.

For Petitioner : Mr.R. Chavan

For Respondent : Mr.R.Dhamodaran

O R D E R

This Criminal Revision has been filed against the order dated 20.2.2013 passed by learned I Additional Family Judge, Chennai in M.C.No.277 of 2009.

2. The petitioner herein is the husband and the first respondent is the wife and the respondents 2 and 3 are minor children.

3. The petitioner married the first respondent on 02.01.1997 and the second and third respondents were born out of the legal wedlock and they lived as husband and wife till 2009. In the year 2009, the respondents herein filed petition under Section 125 of Cr.P.C. claiming maintenance at the rate of Rs.4,000/- per month each stating that the petitioner purposely not maintaining them by providing food, education, medicine and other things and the court below, by order dated 20.2.2013 directed the petitioner/husband herein to pay a sum of Rs.2,000/- per month to the 1st respondent and a sum of Rs.1,500/- per month each to the 2nd and 3rd respondents.

Aggrieved over the said order, the petitioner/ husband has filed the present revision.

4. According to the petitioner, the first respondent on her own accord left the matrimonial home along with children and he also filed petition under Section 9 of Hindu Marriage Act, 1955 in H.M.O.P.No.2580 of 2010 for restitution of conjugal rights. However, the Court below, by order dated 20.2.2013, directed the petitioner herein to pay a sum of Rs.2,000/- per month to the 1st respondent and a sum of Rs.1,500/- per month each to the 2nd and 3rd respondents, which is very excessive.

5. This court, while granting interim stay, by order dated 21.8.2015, directed the petitioner to pay 50% of the arrears of maintenance to the first respondent directly by way of demand draft within a period of four weeks, as the petitioner has not even paid a single pie from the date of order of maintenance. When the matter was listed for reporting compliance on 12.10.2015, there was no representation for the petitioner. Since it was also brought to the notice of this Court that the conditional order has not been complied with, the matter was directed to be listed today under the caption for dismissal.

6. Today, when the matter is taken up, the learned counsel for the petitioner fairly admitted that the conditional order has not been complied with by the petitioner. However, the learned counsel submitted that he is willing to argue the matter on merits.

7. By consent of both sides, the matter is taken up for final disposal.

8. The learned counsel for the petitioner submitted that the petitioner is a diabetic patient and that he is suffering from neuro problems. The learned counsel further submitted that the petitioner has to look after his aged mother out of his income and hence, it is difficult for him to pay the sum of Rs.5000/- per month to the respondents towards maintenance as ordered by the Court below.

9. The learned counsel appearing for the respondents submitted that petitioner and his family members tortured the respondents and they never give any money to the respondents nor maintain them.

10. It is not in dispute that the marriage between the petitioner and the first respondent was solemnised on 22.1.1997 and out of the wedlock the 2nd and 3rd respondents were born to them. It is also not in dispute that the petitioner and the first respondent lived together for long time. It appears that

due to some difference of opinion, the first respondent left the matrimonial home. Admittedly, the petitioner is working in TNEB Co-operative Society. The salary certificate dated 08.2.2012 has been marked as Ex.R3, which would clearly prove that the petitioner is drawing salary of Rs.11,753/- and after deduction, his net salary is Rs.9465/-.

11. The Court below, after considering the above salary certificate, has rightly fixed a sum of Rs.2,000/- per month towards the maintenance of the first respondent, which is just and necessary. Since the respondents 2 and 3 are school going children, the Court below has rightly fixed a sum of Rs.1,500/- per month each towards maintenance, which is also very reasonable. Hence, I do not find any reason to interfere with the reasoned order of the Court below.

12. In the result, the Criminal Revision case is dismissed. Consequently, connected miscellaneous petition is closed.

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-s/d-
Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

To

I Additional Family Court, Chennai

+ 1 cc to Mr.R.Damodharan, Advocate SR 57929

ad(co)
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Cr1 RC No.664 of 2013

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