



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

CrI.R.C. (MD) No.439 of 2014

M.Rajaram ... Petitioner/Respondent

Vs.

R.Veeramani ... Respondent/Petitioner

PRAYER: This Criminal Revision Case is filed under Section under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order passed in M.C.No.74 of 2011 on the file of the Family Court, Madurai, dated 09.09.2014 and set aside the same in the interest of justice.

For Petitioner : Mr.T.Selvan

For Respondent : Mr.D.Nallathambi

ORDER

The petitioner is the husband of the respondent. The respondent filed M.C.No.74 of 2011 before the Family Court, Madurai, claiming maintenance under Section 125 Cr.P.C. to the tune of Rs.6,000/- per month. By order dated 09.09.2014, the Lower Court directed the petitioner herein to pay a sum of Rs.3,000/- per month towards her maintenance. Challenging the same, the petitioner is before this Court with this Criminal Revision Case.

2.I have heard the learned counsel for the petitioner and the learned counsel for the respondent. I have also perused the records carefully.

3.The learned counsel for the petitioner would submit that subsequent to the passing of the impugned order, the Family Court, Dindigul, has granted a decree dated 17.03.2015 for restitution of conjugal rights in favour of the petitioner in H.M.O.P.No.25 of 2014. But, the respondent has not obeyed the said order. Therefore, according to the petitioner, the respondent is not entitled for maintenance. The next contention of the learned counsel for the petitioner is that the petitioner is receiving Rs.1,600/- towards rent from a portion of the house, which is owned jointly by the petitioner and the respondent. So far as the petitioner is concerned, he is earning monthly pension of Rs.500/- alone, besides Rs.1600/- towards rent from yet another portion of the house. The learned counsel for the petitioner further submitted that the petitioner is a retired Government servant and he is an aged person and without any more income. Therefore, according to the learned counsel for the petitioner, the order of the Lower Court deserves to be interfered with.

4.The learned counsel appearing for the respondent would vehemently oppose the same. According to him, as against the order for restitution of conjugal rights passed by the Lower Court, she is taking steps to challenge the same before the higher forum. The learned counsel for the



respondent would further submit that passing of the decree for restitution of conjugal rights would not deprive the petitioner from claiming maintenance. He would further submit that so far as the income is concerned, he is a money lender, which he has been admitted during the cross examination. Thus, according to the learned counsel, the petitioner has got sufficient income to pay Rs.3,000/- to the respondent towards maintenance.

5.I have considered the above submissions.

6.Of course, it is true that a decree for restitution of conjugal rights has been passed by the Civil Court against the respondent. But, the same has not become final as the respondent is taking steps to challenge the same. Therefore, on that score, the order for maintenance cannot be interfered with. So far as the quantum is concerned, it is evident that the petitioner is doing money lending business. He has admitted the same during cross examination. Apart from that, he is also getting rental income. Though it may be true that the respondent is receiving Rs.1,600/- by way of rent, that would not be sufficient for the respondent to sustain herself. She is also an aged lady having diabetics and all other health problems. Having regard to all the above, the Trial Court has granted maintenance to the tune of Rs.3,000/- per month, which in my considered opinion, is very reasonable and the same does not require any interference at the hands of this Court.

7.In the result, this Criminal Revision Case fails and accordingly the same is dismissed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To
The Judge, Family Court, Madurai.

+1cc to M/S.D.Nallathambi, Advocate in SR.No. 33556

TS/24.07.2015/2P - 3C

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