



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

CRL.RC.(MD)No.180 of 2015

and

M.P.Nos.1 and 2 of 2015

S.Sampath Kumar : Petitioner/Respondent

Vs.

I.Girija : Respondent/Petitioner

PRAYER: Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to admit this Civil Revision and call for the records and set aside the award in M.C.No.36 of 2013, dated 22.05.2014, on the file of the Family Court, Madurai.

For Petitioner : Mr.A.Prasanna Rajadurai
For Respondent : Mr.R.Venkatesan
For M/s.Right Law Associates

O R D E R

The petitioner herein is the husband of the respondent. The respondent filed M.C.No.36 of 2013, on the file of the Family Court, Madurai, under Section 125 of the Code of Criminal Procedure, claiming maintenance at the rate of Rs.10,000/- per month. The Trial Court, by order dated 22.05.2014, directed the petitioner to pay a sum of Rs.2,500/- per month towards her maintenance. Challenging the same, the petitioner has come up with the present Criminal Revision Case.

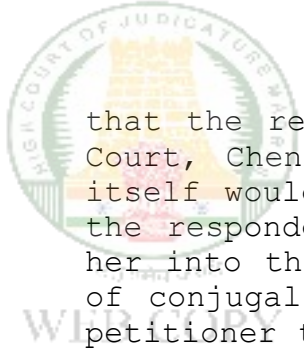
2. I have heard the learned counsel appearing for the petitioner, the learned counsel appearing for the respondent and perused the records carefully. The respondent is also present before this Court.

3. The case of the respondent is that the marriage between her and the petitioner was celebrated on 08.11.2000. A child was born in the year 2001, but unfortunately, the child, later, died. Thereafter, in the year 2005, again a child was born and in the year 2008, the child died. Thereafter, it is stated that the petitioner was forcibly driven out of the matrimonial home. According to the respondent, petitioner owns immovable properties and he is also having income to the tune of Rs.150/- per month.

4. But, the petitioner disputes the above. According to him, the respondent has deserted him voluntarily and therefore, he is not liable to pay maintenance. It is further stated by the petitioner that the petitioner is a differently abled person and there is no income for him.

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5. I have considered the above submissions. Admittedly, the respondent is a differently abled person. It is seen from the records



that the respondent filed O.P.No.870 of 2013, on the file of the Family Court, Chennai, seeking divorce and obtained ex-parte decree also. This itself would go to show that the petitioner is not interested in taking the respondent into the family fold. If really he had intention to take her into the family fold, he would have filed a petition for restitution of conjugal rights. The Trial Court has disbelieved the evidence of the petitioner that the respondent has deserted him. Therefore, I do not find any reason to take a different view on this. Thus, I hold that the petitioner is liable to pay maintenance to the respondent.

6. The learned counsel for the petitioner would submit that the petitioner does not have any income of his own. But, the respondent has filed EX-P5 to EX-P8, which would show that he has got properties. It is in evidence that he is having fruit stall business. For a man of this stature, who has properties in Ambattur and in his native place and doing business, paying maintenance at the rate of Rs.2,500/- per month would not be, in any manner, a hurdle. Going by the cost of living, all the other attendant circumstances and the family status, I am of the view that the Lower Court was right in directing the petitioner to pay a sum of Rs.2,500/- towards maintenance, which does not require any interference at the hands of this Court.

7. In the result, this Criminal Revision Case fails and the same is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Per Admn)

/True Copy/

Sub Assistant Registrar

To

The Family Court, Madurai.

+1cc to Mr.G.Narayanasamy, Advocate in SR.No.28604

+1cc to M/s.Right Law Associates, Advocate in SR.No.28480

CRL.RC.(MD)No.180 of 2015

DATED - 08.06.2015

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PBK/AMF 18/06/2015 ::2P-4C::