



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2015

WEB COPY

CORAM:

THE HONOURABLE MR. JUSTICE **M. SATHYANARAYANAN**

CRL.RC. (MD) No. 25 of 2015

and

M.P.No.1 of 2015

N.Natarajan : Petitioner

Vs.

1.Geetha

2.Minor Abinaya

D/o.Natarajan,

D.No.9A/1, Singarayar Colony,

West Extension, Narimedu, Madurai 2.

[Rep by Mother Guardian]. : Respondents

PRAYER: Criminal Revision case is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records to the order passed in M.C.No.23 of 2011, dated 05.02.2014, passed by the Additional Chief Judicial Magistrate, Madurai and set aside the same.

For Petitioner

: Mr.M.Gnanagurunathan

For Respondent

: Mr.S.Suresh Issac Paul

ORDER

By consent, the Criminal Revision Case itself is taken up for final disposal.

2. The petitioner herein is the respondent in M.C.No.23 of 2011, on the file of the Court of Additional Chief Judicial Magistrate, Madurai. The first respondent herein has filed the said petition under Section 125 of the Code of Criminal Procedure Code, claiming maintenance of Rs.30,000/- per month and a sum of Rs.1,00,000/- towards educational expenses. It is the case of the first respondent herein that the marriage between her and the Revision Petitioner herein was solemnized, on 22.05.1986 and out of the wedlock, three male children and one female child were born and within a short span of time of marriage, difference of opinion arose between them. The first respondent would further aver that the Revision Petitioner/husband has also addicted to alcohol and used to physically abuse her and also suspect her fidelity and left with no other option, she was forced to leave the matrimonial home with four children. It is further contended that the first respondent has studied upto 10th standard and she is not in a



position to run the family and further that the Revision Petitioner/husband was employed in abroad and he is a man of means and bound to pay maintenance.

3. The Revision Petitioner has filed a counter, admitting marriage between him and the first respondent and would further state that she never performed her duty as a dutiful wife and she was indulging in exorbitant expenses and she, on her own volition, left the matrimonial home and hence, she is not entitled for maintenance.

4. During the course of enquiry, the first respondent has examined herself as PW-1 and marked EX-P1 and EX-P2 and the Revision Petitioner has examined himself as RW-1 and marked EX-R-1 to EX-R3. The Trial Court, on a consideration of the oral and documentary evidences, found that three male children had studied in Engineering Course and though it is contended by the Revision Petitioner herein that he is aged about 58 years, and therefore, he will not be in a position to pay maintenance, the Trial Court, taking into consideration of the fact that the marital relationship as well as parentage is not in dispute, has awarded a sum of Rs.3,000/- per month to the first respondent/wife and insofar as the second respondent is concerned, dismissed the petition, as she has attained majority.

5. The learned counsel for the Revision Petitioner would contend that on account of his age, the Revision Petitioner/husband finds it very difficult to maintain himself and therefore, the amount awarded by the Lower Court is exorbitant and prays for interference.

6. Per contra, the learned counsel for the first respondent/wife would contend that the Revision Petitioner/husband did not maintain her and the family and the first respondent/wife, with great difficulty, given education to all the children and thus, the amount of Rs.3,000/- awarded by the Lower Court is very much on the lower side and prays for dismissal of this petition.

7. This Court, upon hearing the submissions made by the learned counsel appearing for the parties and on perusing the materials placed before it, is of the view that the present Criminal Revision Case is to be dismissed for the following reasons:-

8. The fact of marriage and parentage of four children is admitted. It is also an admitted fact that the four children were brought up only by the first respondent and in spite of great difficulty she had given education to the three children, who are Engineers now. The second respondent has attained majority and therefore, she has to make arrangements for her marriage expenses.



Though it is contended by the learned counsel for the Revision Petitioner/husband that the petitioner, on account of advanced age of 58 years, and also without job, cannot maintain himself, this Court is not impressed upon the said argument, for the simple reason that once the marriage is admitted, he is bound to maintain his wife. The Trial Court, taking into consideration of the fact that the Revision Petitioner/husband is a diploma Holder and capable of earning good income, has thought it fit to award a sum of Rs.3,000/- towards maintenance.

9. This Court, taking into consideration of the present inflationary trend and that the cost of essential commodities is increasing day-by-day, is of the considered view that the amount awarded by the Trial Court cannot be said to be exorbitant/higher side. The Trial Court has also taken into consideration of all the relevant aspects and on proper appreciation of materials placed before it, has rightly reached the conclusion and awarded maintenance. This Court does not find any error or infirmity in the order of the Lower Court. Hence, the Criminal Revision Case is dismissed, confirming the order, dated 05.02.2014 made in M.C.No.23 of 2011, passed by the Court of Additional Chief Judicial Magistrate, Madurai. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Per Admn)

/True Copy/

Sub Assistant Registrar

To

The Additional Chief Judicial Magistrate, Madurai.

+1cc to Mr.M.Gnanagurunathan, Advocate Sr.No.11781

nb

AA/20.03.2015/3p- 3c/

**ORDER MADE IN
CRL.RC. (MD) No.25 of 2015
11.03.2015**