

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.12.2016
CORAM
THE HONOURABLE Mr. JUSTICE DR.P.DEVADASS
Crl.Rc.No.1196 of 2011

Srinivasan

..

Petitioner

Vs.

1.Thilagavathi

2.Minor Nanthini

3.Minor Mohaganesh

(Minor Respondents 2 and 3 are
represented by their guardian and mother
Thilagavathi)

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Respondents

Prayer: Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. against the order dated 09.03.2011 made in M.C.No.66 of 2009 on the file of the Chief Judicial Magistrate, Erode.

For Petitioner : Mr.A.K.Kumaraswamy

For Respondents : M/s.I.C.Vasudevan

O R D E R

Husband is the revision petitioner.

2. On 15.09.1996, the revision petitioner married the first respondent. They were blessed with two children. They are respondents 2 and 3. Dispute arose between the spouses.

3. There are allegation that the husband/revision petitioner gave importance to Wine and Women. Both vices has become part of his life. Unable to tolerate his nefarious activity, the wife left the matrimonial home along with her children to her parents house. They have no means to maintain themselves. However, the revision petitioner did not maintain them. He gave very big heart to one Saraswathi and paid only lip service to his wife and children. The penury stricken wife and the children have sought for maintenance in M.C.No.66/2009 in the Court of the learned Chief Judicial Magistrate, Erode.

4. The husband justified his conduct by contending that without rhyme or reason, his wife left the matrimonial home along with the children and he is not financially sound.

5. The Trial Court, considering the evidence of PW1/wife and of RW1/husband and Exs.P1 and P2 concluded that the wife and children are justified in leaving away from the husband and directed him to pay Rs.3,000/- to the wife and Rs.2,000/- each to the two children from the filing of the maintenance petition.

6. As the said direction is not to his liking, the husband directed this revision.

7. I have anxiously considered the arguments of both, the impugned order and the entire materials on record.

8. It is not in dispute that the wife and children kept themselves away from the revision petitioner. Satisfactory evidence has been let in before the Trial Court with regard to the bad habits of the revision petitioner and they have successfully proved that he is not a clean man and they have also established that in such a situation they have to leave him and reside in her parents house. There is no evidence that the first respondent/wife is having sufficient financial capacity to maintain themselves. Acceptable evidence has been adduced to show that the revision petitioner has requisite financial capacity to pay maintain them. I do not find any reason to interfere with the impugned order of the Trial Court.

9. While I am at the close of this order, the learned counsel appearing for the revision petitioner submitted that now the spouses have forgotten the past, they have become happy couples and are living happily along with their children.

10. In view of the unity of the spouses and the children, the following order is passed:

(i) The order of maintenance dated 09.03.2011 passed in M.C.No.66 of 2009 on the file of the Chief Judicial Magistrate, Erode is upheld.

(ii) Both may file a petition under Section 127 CrPC before the learned Chief Judicial Magistrate, Erode and in that event, on being satisfied, the learned Chief Judicial Magistrate, Erode shall pass orders cancelling the order of maintenance passed on 09.03.2011.

11. Accordingly, this Criminal Revision Case is disposed of.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

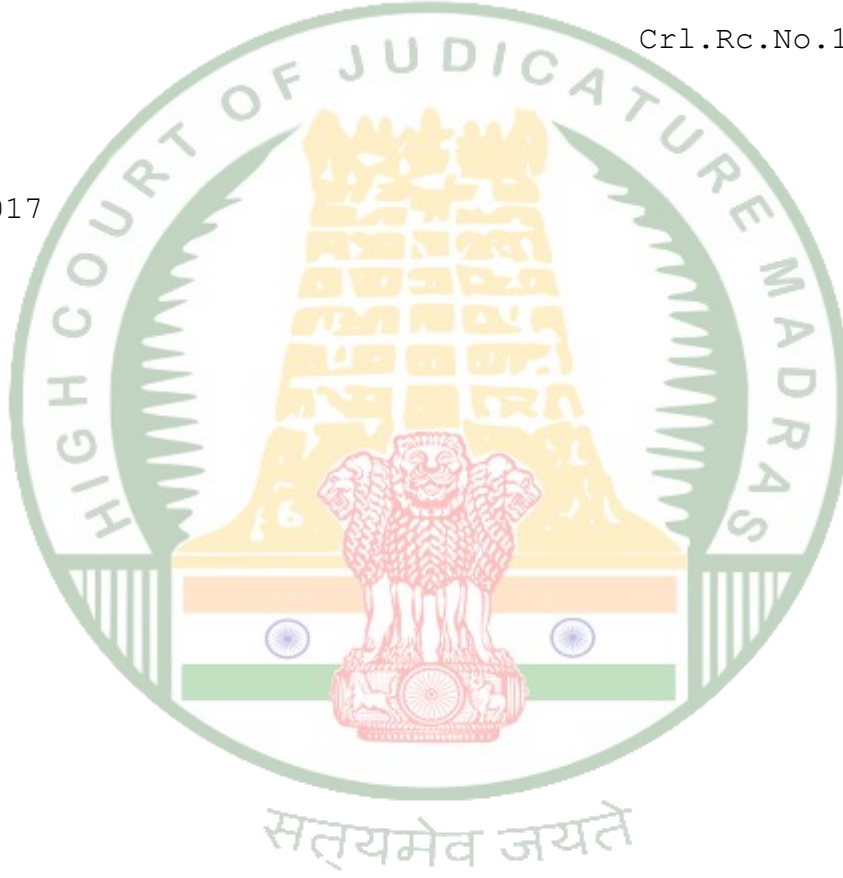
To

The Chief Judicial Magistrate,
Erode.

+1 cc to Mr.I.C.Vasudevan Advocate sr 71903

Cr1.Rc.No.1196 of 2011

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