

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Cr1.R.C.No.382 of 2015

and

M.P.No.1 of 2015

Thatchinamoorthy
S/o.Krishnasamy Gounder ... Petitioner/Respondents

vs.

1.Sivagamy
W/o.Thatchinamoorthy

2.Aravindhan (Minor)
S/o.Thatchinamoorthy
represented by his natural guardian/mother
first respondent. ... Respondent/Petitioner

Criminal Revision filed under Section 397 and 401 Cr.P.C.
against the common order of learned District Judge, Family
Court, Puducherry, passed in Cr.M.P.No.224 of 2014 in M.C.No.68
of 2011 on 15.12.2014.

For Petitioner : Mr.S.Gajendran
For Respondents: Mr.K.S.Karthik Raja

O R D E R

This revision arises against the common order of learned
District Judge, Family Court, Puducherry, passed in
Cr.M.P.No.224 of 2014 in M.C.No.68 of 2011 on 15.12.2014.

2. Petitioner and first respondent are husband and wife.
Second respondent is their minor child. First respondent moved
M.C.No.68 of 2011 on the file of learned District Judge, Family
Court, Puducherry, seeking maintenance in a sum of Rs.10,000/-
p.m. for herself and her minor child. By way of interim order,
Court below directed petitioner to pay a sum of Rs.1,000/- p.m.
towards interim maintenance. Petitioner moved Cr1.M.P.No.224 of
2012 in M.C.No.68 of 2011 seeking recall of PW-1 for cross-
examination. Court below, under orders dated 15.12.2014,
dismissed such petition. Hence, this revision.

3. Heard learned counsel for petitioner and learned counsel for respondents.

4. In dismissing the petition, Court below has reasoned that first respondent/wife has filed the maintenance case in the year 2011, that the petitioner was set ex parte and the petition filed to set aside the ex parte order was also allowed. Though PW-1 was examined in chief on 13.11.2013 and the case was pending for her cross-examination from 04.02.2014 to 06.05.2014, petitioner has not cross-examined PW-1 despite sufficient opportunities afforded to him and hence, the evidence of PW-1 was closed. Having failed to avail the opportunities afforded to him, petitioner has moved a petition seeking recall of PW-1 for cross-examination and in support thereof, filed medical records to show that he was taking treatment and hence, he could not cross-examine PW-1. On a perusal of medical records, Court below found that the petitioner has taken treatment during January, June and July 2014 and has not taken any treatment between 04.02.2014 and 06.05.2014, during which period the case was posted for cross-examination of PW-1. Further, petitions moved by petitioner seeking DNA test and for dissolution of marriage on the ground of desertion have been dismissed and the appeal preferred before this Court against dismissal of divorce petition has been dismissed with heavy costs and hence, it was clear that the present petition has been moved only to drag on the proceedings. This Court finds no error in the order under challenge.

The Criminal Revision Case shall stand dismissed. Connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

gm
To

The District Judge,
Family Court,
Puducherry.

+1 cC to Mr.K.S. Karthik Raja, Advocate sr 62790.

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SJ(CO)
SP(21/11/2017)