

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.09.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Cr1.R.C.No.516 of 2015

and

M.P.No.1 of 2009

V.B.Kamalanathan

... Petitioner

Vs.

1. K.Jayasree

2. Minor K.Chandra Bommi

3. Minor K.Chandra Lakshmi

... Respondents

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 02.03.2015 made in MP.No.495 of 2012 in MC.No.145 of 2012 passed by the learned II Additional Family Court, Chennai.

For Petitioner : Mr.A.S.Narasimhan

For Respondent : Mr.O.S.Vijayasarithi

ORDER

The Criminal revision is directed against the order passed by the learned II Additional Family Court, Chennai made in MC.145 of 2012 dated 02.03.2015, directing the revision petitioner/husband to pay a sum of Rs.10,000/-p.m. each totally Rs.30,000/-p.m. from the date of petition, towards interim maintenance to the respondents 1 to 3, Rs.10,000/- towards litigation expenses and to pay Rs.5,000/- towards travelling expenses.

2.The few facts of the case which are relevant for consideration herein are as follows :-

It is admitted by both sides, the marriage between the petitioner and the respondents solemnized on 27.11.2005 at Royapuram, Chennai, according to Hindu rites and customs. They have been blessed with two female children. The respondent used to brutally assault the petitioner/wife and neglected to provide basic necessities. The respondent never turned up and not sent

any amount towards maintenance to the petitioner/wife and children till date. The respondent/wife filed the petition in MC.No.145 of 2012 for maintenance and thereafter filed MP.No.495 of 2012 for interim maintenance. The trial Court after considering the facts and circumstances and after perusing the documents awarded Rs.10,000/-p.m. each (totally Rs.30,000/-p.m.) from the date of petition i.e, on 01.08.2012, Rs.5,000/- towards travelling expenses and Rs.10,000/- towards litigation expenses. Aggrieved against the said order, the revision petitioner/husband is before this Court.

3.The learned counsel for the revision petitioner mainly contended that the trial Court without analysing the evidences on record comes to wrong conclusion and awarded the maintenance of Rs.30,000/-p.m., Rs.10,000/- towards litigation expenses and Rs.5,000/- towards travelling expenses. The petitioner is liable to pay the maintenance only from the date of order passed by the trial Court and not from the date of filing of the petition under Section 125Cr.PC. The trial Court failed to consider the fact that the respondents are residing in the petitioner premises, under the compromise memo filed in DVC.No.12 of 2010 on the file of the XV Metropolitan Magistrate, George Town, Chennai. Further, the trial Court failed to consider the textile belongs to the father and mother of the revision petitioner and after the death of the petitioner's father, the same closed long back,. Hence, the learned counsel prays for setting aside the order of the trial Court and to allow the criminal revision.

4.The learned counsel for the respondents submitted that the trial Court after considering the facts and circumstances of the case and after considering the arguments of both sides awarded appropriate maintenance and there is no illegality or infirmity in the order of the trial Court and prays for dismissal of the revision petition.

5.Heard the rival submissions made on both sides and perused the records. On the side of the respondents Ex.1 to Ex.9 were marked before the trial Court and no documents were marked on the side of the revision petitioner and both the parties have not adduced evidence before the trial Court.

6.The learned counsel for the revision petitioner denies that the SV.Bose Textile is not owned by the revision petitioner, the same is maintained by the father and mother of the revision petitioner, after the death of the petitioner's father the said textile shop is closed. The respondents alleged that the revision petitioner is running textile business at M.C.Road, Chennai and J.J.Finance at Kapal Polu Street, Old

Washermenpet, Chennai. The revision petitioner has not produced any documents before the trial Court, to show that after the death of his father the business was closed long back, the revision petitioner has become owner of the textile shop and running the business. Apart from the textile business, the petitioner is also running finance business.

7.The trial Court after considering the economic and financial status of the revision petitioner, directed the revision petitioner to pay Rs.10,000/-p.m. each (totally Rs.30,000/-p.m.) to the respondents 1 to 3, Rs.10,000/- towards litigation expenses and Rs.5,000/- towards travelling expenses. The petition is filed under Section 125 Cr.PC claiming maintenance, hence, the respondent/wife is entitled to claim maintenance from the date of petition, the revision petitioner has to pay the maintenance from the date of petition, the petitioner/husband cannot deny to maintain his wife during the pendency of the trial proceedings. This Court finds no illegality or infirmity in the order passed by the trial Court and the same does not warrant any interference by this Court.

8.In the result, the criminal revision stands dismissed. Consequently, connected miscellaneous petition is closed. The trial Court is directed to disposed of the main case as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

tsh

To

The II Additional Principal Judge,
Family Court, Chennai.

+1cc to Mr.A.S.Narasimhan, Advocate, S.R.No.51668

Cr1.R.C.No.516 of 2015

KGK(CO)
CA(27/09/2016)