

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2016

CORAM:

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

Crl.R.C.No.1035 of 2016

and

Crl.M.P.No.8596 of 2016

S.Chinnasamy

S/o.Subbanna Gounder

... Petitioner/Appellant

Vs.

C.Dhanalakshmi

... Respondent/Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. praying to set aside the fair order dated 16.10.2015 made in M.C.No.188 of 2010 on the file of Principal Family Judge, Coimbatore.

For Petitioner : Mr.S.Mukunth

For Respondent : Mr.S.B.Viswanathan

O R D E R

This revision petition has been filed praying to set aside the order dated 16.10.2015 made in M.C.No.188 of 2010 on the file of Principal Family Judge, Coimbatore.

2.The brief facts of the case is as follows:

Marriage between revision petitioner and respondent took place in the month of December 1981 according to Hindu rites and customs. After marriage, the couple started matrimonial life at petitioner's house. There were dispute between husband and wife and hence, respondent stayed a very long time at her parent's house. A male child was born on 25.9.1989. H.M.O.P.No.539 of 2010 before learned Principal Family Judge, Coimbatore, was moved by the revision petitioner seeking divorce. Respondent/wife moved petition in M.C.No.188 of 2010 seeking maintenance. Learned Principal Family Judge, Coimbatore, by way of a common judgment, has dismissed the petition filed in H.M.O.P.No.539 of 2010 for divorce and allowed M.C.No.188 of 2010, directing revision petitioner herein to pay a sum of RS.3,500/- p.m to respondent as maintenance.

3.Learned counsel for revision petitioner submitted that trial Court erred in dismissing H.M.O.P. for divorce. A Civil Miscellaneous Appeal has been preferred by revision petitioner against such dismissal. This revision is preferred only against the order of maintenance. An order of dismissal passed herein by this Court, would amount to res-judicata viz-a-viz, the civil miscellaneous appeal preferred against the dismissal of petition for divorce.

4.This Court unable to agree. This revision is restricted to the liability of the petitioner to pay maintenance to respondent/wife. The husband is duty bound to maintain his wife. Revision petitioner is required to pay a meager sum of Rs.3,500/- p.m. as maintenance to the respondent as per the order passed in M.C.No.188 of 2010. This revision has no merits and the same is to be dismissed.

5.In the result, the Criminal Revision is dismissed. The order passed in MC.188 of 2010 by the Principal Family Judge, Coimbatore is confirmed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1. The Principal Family Court,
Coimbatore.

2.The Public Prosecutor,
High Court, Chennai.

+1 cc to Mr.S.B.Viswanathan,advocate,sr.59684

+1 cc to M/s.Sarvabhauman Associates,sr.59388.

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