

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.1083 of 2013

and

M.P.No.1 of 2013

Babu Karuppusamy ... Petitioner/ Respondent

Vs.

1.Praba Bala Subramanian

2.Minor Vidun Babu

3.Minor Sivani Sree Babu

(Rep by mother

1st Respondent

...Respondents/ Petitioner

Prayer: Criminal Revision Case filed under Section 397 of the Code of Criminal Procedure, against the order passed in M.C.No.14 of 2010 on the file of the Family Court Judge, Coimbatore, dated 19.07.2013 directing the petitioner to pay a sum of Rs.16,000/- towards maintenance per month to the respondents.

For Petitioner :M/s.V.Sivakumar

For Respondent :M/s.N.Manokaran

ORDER

This criminal revision case is directed against the order passed by the Family Court Judge, Coimbatore, in M.C.No.14 of 2010, dated 19.07.2013, directing the petitioner to pay a sum of Rs.8,000/- per month to the first respondent and a sum of Rs.4,000/- per month to each of the respondents 2 and 3, totalling to a sum of Rs.16,000/- towards maintenance to the respondents.

2. In this case, the marriage between the petitioner and the 1st respondent was held on 10.06.2005 at V.R.G.Kalyana Mandapam, Edayarpalayam, Coimbatore, as per Hindu Religious Rights and Customs. After six months of the marriage, the petitioner and the 1st respondent went to USA. Out of the said wedlock, they have got two children. When the petitioner and the 1st respondent were in USA, the petitioner demanded a sum of Rs.10,00,000/- as a dowry and he was also having illegal intimacy with another woman. The petitioner and the 1st respondent along with respondents 2 and 3, came to India and thereafter only the 1st respondent came to know about the attitude of the petitioner that he planned to leave the 1st respondent in India and return to USA to live illegally with the other woman. The 1st respondent lodged a complaint before the Inspector of Police, All Women Police Station, Thudiyalur. The 1st respondent is a house wife and she is not in a position to maintain herself and the children. The petitioner is working in a Software Consultancy and is drawing a monthly salary of Rs.2,00,000/-; but he never taken care to maintain the respondents. The respondents have no source of income and hence the petitioner under law, is bound to pay maintenance to them. In these circumstances, Rs.8,000/- per month, to the first respondent, and a sum of Rs.4,000/- to each of the respondents 2 and 3, totalling to Rs.16,000/- respectively, was directed to be paid as maintenance by the Court below. Against which, the present petitioner/respondent preferred the present revision.

3. The learned counsel for the petitioner mainly contended that the Trial Court without considering the entire documents produced on either side had directed to pay the maintenance to R1 to R3 respectively. On 13.06.2009, without any just and valid reason, the parents of the 1st respondent forcibly took the 1st respondent and the respondents 2 and 3 from the Madras Airport to Coimbatore itself. Hence, the present petition is not maintainable. However, the learned counsel for the petitioner further contended that the 1st respondent is residing in her own house and her income is Rs.50,000/- per month and also having a cash balance of Rs.70,00,000/- towards her share amount of

the sale proceeds of her ancestral properties and getting interest on the said amount. The 1st respondent has studied M.Sc Information Technology and she can able to get employment with substantial salary. Further, the 1st respondent is able to maintain her children also. Hence, the learned counsel prayed for setting aside of the order directing to pay maintenance to the respondents and to allow the revision.

4. The learned counsel for the respondents would mainly content that the present petitioner have a separate family and he is having illegal intimacy with another woman and left the first respondent/wife. Hence, the revision petitioner alone has separated from the family and his desire of joining the matrimonial home is not possible. The Trial Court has passed appropriate orders, directing the revision petitioner to pay the maintenance amount the respondents 1 to 3. Hence, there is no illegality and infirmity has to be dismissed.

5. Admittedly, the revision petitioner and the 1st respondent after the marriage were living together in USA and it is also admitted that they returned to India on 13.06.2009 at Madras Airport. On the side of the first respondent, it is contended that the present petitioner had illegal intimacy with another woman and also he is demanding dowry and they are so many matrimonial cases pending against between the parties. In view of the above reasons, the first respondent /wife is entitled to reside in her parental home. Hence, the argument of the learned counsel for the petitioner that the petitioner is ready and willing to accept the first respondent along with the children home and that she is not entitled to compensation, are not at all acceptable and the arguments are liable to be rejected.

6. The learned counsel for the petitioner would entered that the first respondent/wife is sufficiently earning and she is getting monthly income of Rs.50,000/-. The above contention is not acceptable as per the submission of PW1 in her cross-examination and that she is not able to maintain herself. PW.1 [1st respondent herein] in her Cross examination has stated that she has got no other income and that she

is not able to maintain her family, in particular, the children. Further, there is also no substantial evidence on the side of the petitioner to prove that the 1st respondent is sufficiently earning and is able to maintain herself.

7. Admittedly, the present revision petitioner already working in USA and he is earning sufficient income. In view of the above circumstances, considering the status of the revision petitioner and also considering the evidence of the 1st respondent, this Court is of the considered view that the maintenance awarded is not at an inappropriate and excessive at any rate. Accordingly, this Court finds no illegality or infirmity in the order passed by the learned Judge, Family Court, Coimbatore.

8. In the result, the Criminal Revision Case is dismissed and the order passed by the learned Judge, Family Court, Coimbatore in MC.No.14/2010 dated 19.07.2013 is hereby confirmed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

ub

To

The Family Court Judge,
Coimbatore.

1 cc to Mr.N. Manokaran, Advocate, Sr. 56517
1 cc to Mr.V. Sivakumar, Advocate, Sr. 56351

Cr1.R.C.No.1083 of 2013
and
M.P.No.1 of 2013

SKV (CO)
kk 3/11