

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.08.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

CrI.R.C.No.221 of 2016

and

CMP.No.1540 of 2016

M.Chandrasekar

.. Petitioner

Vs.

Saraswathi @ Kalavathi

.. Respondent

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order passed in MC.No.489 of 2012 dated 16.04.2014 on the file of the Principal Family Court, Chennai.

For Petitioner : M/s.Vedavallikumar
For Respondent : Mr.G.Murali

ORDER

This Criminal Revision is directed against the order passed by the learned Principal Family Court, Chennai made in MC.No.489 of 2012 dated 16.04.2014, directing the revision petitioner to pay maintenance of Rs.3,500/-p.m. from the date of petition i.e., 31.10.2012.

2.The learned counsel for the petitioner would mainly contend that the trial Court failed to consider that the respondent/wife voluntarily refused to live with the petitioner and voluntarily left the matrimonial home on 08.01.2009 and the wife lived with the revision petitioner only for 45days. The trial Court ought to have dismissed the application, that the petitioner is working Cooli and the respondent wife is working in private company and earning Rs.6,000/-p.m. The trial Court failed to consider that no wife is entitled to receive allowance for maintenance or the interim maintenance, if she is living in adultery or without any sufficient reason to live with the husband. The respondent wife voluntarily left the matrimonial home, hence, she is not eligible to get any maintenance. The trial Court erred in coming to a conclusion that the respondent/husband is earning Rs.15,000/-p.m. Hence, prays to

allow the criminal revision and set aside the order of the trial Court.

3.The learned counsel for the respondent would vehemently contend that the wife is not working in any private company and earning. The petitioner/husband is duty bound to maintain the wife, the trial Court has granted only a meager sum of Rs.3,500/- per month towards maintenance cannot be deemed as excessive amount.

4.Heard the rival submissions made on both sides and perused the records.

5.On perusal of records, it is seen that the respondent was examined as PW1 and marriage invitation and photographs are marked as Ex.P1 and P2 on the side of the respondent/wife. The petitioner was examined as DW1 and Exs.R1 to R6 were marked on the side of the petitioner/husband.

6.According to the respondent/wife, the revision petitioner/husband is working as Goldsmith and doing jewellery business and earning monthly income of Rs.1,00,000/-p.m., the husband states that his income is only Rs.10,000/-p.m. The trial Court after considering the reasons the goldsmith in Chennai city are earning more than sufficient income and the respondent/husband failed to establish that he is earning only Rs.10,000/-p.m. Further, the revision petitioner failed to produce any documents to prove that the respondent/wife is working in private garment factory and earning Rs.6,000/-p.m., failure to produce any documents to prove his case, the arguments so advanced by the learned counsel for the petitioner cannot be accepted at this stage. However, the respondent lived in the matrimonial house for short period of 45days only. The respondent is the wife of the revision petitioner is the admitted fact and he is liable to pay maintenance and she has no income to maintain herself. The revision petitioner has to pay the maintenance to the respondent/wife and the order of the trial Court in fixing the monthly maintenance of Rs.3,500/-p.m. cannot be deemed as excessive one. 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.

7.In the result, the criminal revision petition stands dismissed. Consequently, connected miscellaneous petition is closed.

tsh

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Principal Family Court, Chennai.

2. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.G.Murali, Advocate Sr 47892

+ 1 cc to Mrs.Vedavallikumar, Advocate Sr 47882

KR/2/9/16

Cr1.R.C.No.221 of 2016



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