

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Cr1.R.C.No.325 of 2016
and
Cr1.M.P.No.2181 of 2016

A.Ebinesan ... Petitioner/Respondent

Vs.

1. Rachel Suganthi
2. Pavithra Magdelene Karunavathi (Minor)
3. Arline Nivetha Kanimozhi (Minor)
Both minors are represented by their
next friend and mother
Rachel Suganthi. ... Respondents/Petitioners

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, praying to call for the records in connection with the order dated 26.11.2015 in F.C.M.C.No.26 of 2014 on the file of the learned Family Court Judge, Vellore, and set aside the same.

For Petitioner : Mr.M.Babu Muthu Meeran
For Respondents : Notice served.
No Appearance

ORDER

This Criminal Revision Case is directed against the order dated 26.11.2015 passed by the learned Family Court Judge, Vellore, in F.C.M.C.No.26 of 2014, awarding maintenance of Rs.5,000/- to the first respondent herein and Rs.6,000/- to the second respondent herein and Rs.4,000/- to the third respondent herein.

2. It is admitted that the revision petitioner is the husband of the first respondent herein and father of the second and third respondents herein. It is also admitted on the side of the revision petitioner that the marriage between the revision petitioner and the first respondent was solemnized according to the Christian Religious Custom. The respondents

herein have filed an application before the Family Court, Vellore, under Section 125 of Cr.P.C., claiming interim maintenance from the revision petitioner. The Family Court, Vellore, after considering the entire evidence and documents adduced on either side, allowed the said petition and directed the respondent therein/revision petitioner to pay a sum of Rs.5,000/- to the first respondent herein and Rs.6,000/- to the second respondent herein and Rs.4,000/- to the third respondent herein from the date of petition on or before 5th of every month. As against the said order passed by the trial Court, the present criminal revision case is preferred by the revision petitioner before this Court.

3. The learned counsel for the petitioner would mainly contend that the trial Court, without appreciating the fact that the first respondent herein is working and earning salary of Rs.25,000/- per month, erroneously allowed the maintenance application and directed the revision petitioner herein to pay maintenance to the respondents herein. It is further contended that the trial Court has failed to consider the fact that the first respondent herein has developed illicit relationship and deserted her husband and as such she is not entitled to get maintenance as per Section 125(4) of Cr.P.C. It is also submitted that the learned trial Judge failed to consider the fact that a false criminal case has been filed against the revision petitioner on the basis of the complaint given by his wife for the offences under Sections 498 (A), 294(b), 292(2) (a) and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. It is further submitted that the learned trial Judge has failed to consider the fact that during the cross-examination, the first respondent has admitted that she is working as a Stores In charge in V.I.T. University and getting monthly salary. Hence, the order of the learned trial Judge has to be set aside and the criminal revision case has to be allowed.

4. Even though notice was served on the respondents and their names are also printed in the cause list, they have not chosen to appear either in person or through counsel.

5. This Court has perused the entire materials produced on the side of the petitioner.

6. In this case, on a perusal of the entire records, it is seen that there is no acceptable evidence adduced on the side of the revision petitioner that the first respondent herein/wife had illicit intimacy and living in adultery. Hence, the argument of the learned counsel for the petitioner that since the first respondent is living in adultery, she is not entitled

for any maintenance is liable to be rejected. Further, the argument of the learned counsel for the petitioner that the first respondent herein has filed a complaint against the revision petitioner for the offences under Sections 498 (A), 294 (b), 292(2)(a) and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act is not a ground for rejecting the claim of maintenance. Whether the allegations mentioned in the complaint is true or not has to be decided in the appeal filed in this case. Hence, the argument of the learned counsel for the petitioner that since the first respondent herein had preferred a complaint against the revision petitioner and the revision petitioner is not liable to pay maintenance is not at all acceptable one and the said argument is also liable to be rejected. The learned counsel for the petitioner would further contend that the first respondent herein is working as a Stores In charge in V.I.T. University and getting monthly salary and hence she is not entitled for any maintenance. In this case, on a perusal of the order of the trial Court, it is clearly seen that the first respondent herein/wife herself has admitted that she is working as a Stores In charge in V.I.T. University and earning a salary of Rs.5,000/- per month which is very meager and it is not sufficient to maintain herself and her two children. Hence the trial Court, considering the above fact, directed the revision petitioner to pay a sum of Rs.5,000/- to the first respondent herein and Rs.6,000/- to the second respondent herein and Rs.4,000/- to the third respondent herein.

7. Even though the first respondent/wife is working as a Stores In charge in V.I.T. University, her monthly salary is very meager and she is not able to maintain herself and her two children. Considering the present cost of living, the trial Court, passed appropriate order directing the revision petitioner to pay a sum of Rs.5,000/- + Rs.6,000/- + Rs.4,000/-, totally Rs.15,000/- to the respondents respectively, which is very reasonable and the said amount cannot be considered as excessive at any rate.

8. In view of the above, this Court is of the considered view that there is no infirmity or illegality in the order passed by the trial Court and this Court finds no reason to interfere with the order of the trial Court and hence, the criminal revision case is liable to be dismissed.

9. In the result, this Criminal Revision Case is dismissed.
Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

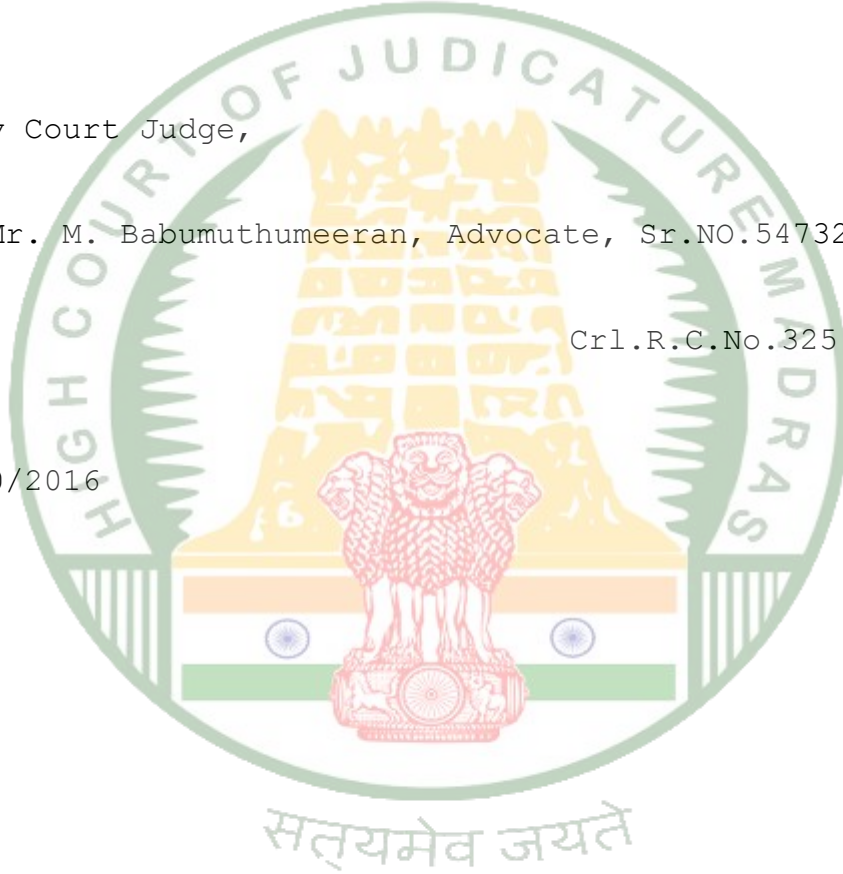
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To
The Judge,
The Family Court Judge,
Vellore.

+1 CC to Mr. M. Babumuthumeeran, Advocate, Sr.NO.54732

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GJ II (CO)
MD : 19/10/2016



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