

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

CrI.R.C.No.478 of 2016
and
CrI.M.P.No.3181 of 2016

L.Saravanan Petitioner/Respondent

Vs.

1. Santhi
2. Sruthi Respondents/Petitioners

Prayer: Criminal Revision Case filed under Section 397 r/w. 401 of the Code of Criminal Procedure, to call for the records relating to the order dated 11.12.2015 in F.C.M.C.No.27 of 2014 on the file of Family Court, Dharmapuri (M.C.No.2 of 2012 of Judicial Magistrate Court No.II, Dharmapuri.

For Petitioner : Mr.V.Natarajan

For Respondents : Notice served
No Appearance

ORDER

This Criminal Revision Case is directed against the order dated 11.12.2015 passed by the learned Judge, Family Court No.II, Dharmapuri, in F.C.M.C.No.27 of 2014 (M.C.No.2 of 2012 of Judicial Magistrate Court No.II), Dharmapuri.

2. The learned counsel appearing for the petitioner would contend that the first respondent viz., Santhi is not the legally wedded wife of the revision petitioner and as such, she is not entitled to any maintenance. Even before the alleged marriage between the revision petitioner and the first respondent, the petitioner herein was married to one Chinnammal on 03.05.1997 and the same was registered on 16.05.1997 and as such, the alleged marriage dated 12.05.1997, which was alleged to be registered on 23.05.1997, is not a legal marriage and the first respondent herein is not the legally wedded wife of the revision petitioner. It is further contended by the learned counsel for the petitioner that the petitioner is only working as a school teacher and is receiving a meager salary, after deduction of his loan and other commitments and he is not able

to maintain the legally wedded wife and his family. Hence, the learned counsel for the petitioner prayed that the order passed by the learned Family Court Judge No.II, Duarmapuri, awarding a sum of Rs.5,000/- to the respondents each, totally Rs.10,000/- may be set aside and the Criminal Revision Case may be allowed.

3. Though the respondents have been served and their names also have been printed in the cause list, there is no representation on their behalf.

4. This Court heard the leaned counsel for the petitioner and perused the records.

5. In this case, the respondents have filed a petition in F.C.M.C.No.27 of 2014 before the Family Court No.II, Dharmapuri, claiming maintenance under Section 125 of Cr.P.C. The learned trial Judge, after perusing the records, directed the revision petitioner/husband to pay a sum of Rs.5,000/- each to the respondents 1 and 2 from the date of petition and Rs.10,000/- towards cost of litigation. As against the said order, the present criminal revision case is preferred before this Court.

6. In this case, before the lower Court, Marriage Registration Certificate-Ex.P.1 was produced by the petitioners therein to prove the marriage between the revision petitioner along with first respondent herein. Since the marriage between the revision petitioner and the first respondent was proved by the marriage registration certificate-Ex.P.1, the petitioner is liable to pay maintenance to the first respondent/wife and the second respondent/daughter of the petitioner and the first respondent. The learned trial Judge, in his judgment, had specifically hold that the marriage registration certificate-Ex.P.1 filed by the petitioners is sufficient to hold that the registration followed by the marriage between the first petitioner and the respondent. Further, in this case, regarding the paternity of the second respondent, D.N.A. test was conducted and the report was marked as Court document Ex.X1, which discloses the fact that the revision petitioner herein is the biological father of the second respondent herein which could be taken as conclusive proof that the revision petitioner is the father of the second respondent minor viz., Shruthi. Hence, the argument of the learned counsel for the revision petitioner that the first respondent is not the legally wedded wife of the revision petitioner and the second respondent is not the daughter of the revision petitioner is not at all acceptable.

7. It is contended that the revision petitioner is working as a school teacher and receiving a meager salary, after deduction of his loan and other commitments. According to the petitioner, he is receiving only a meager salary. But on the side of the revision petitioner, no salary certificate or pay

drawn particulars were produced before the trial Court. In the absence of any pay certificates produced on the side of the revision petitioner, it is appropriate to award a sum of Rs.5,000/- to each of the respondents as maintenance and in any way, it cannot be claimed as excessive. Hence, there is no infirmity or illegality in the order passed by the learned Judge, Family Court No.II, Dharmapuri. This Court finds no reason to interfere with the order of the trial Court which do not warrant any interference by this Court and hence, the criminal revision case is liable to be dismissed.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Judge,
Family Court,
Dharmapuri.

+1cc to Mr.V.Natarasan, Advocate Sr.10563

Cr1.R.C.No.478 of 2016

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