

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.09.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

CrI.R.C.No.952 of 2009
and MP.No.1 of 2009

Raja

.. Petitioner

Vs.

Sasikala

.. Respondent

Prayer :- Criminal Revision Petition filed under Section 397 r/w401 of Cr.P.C. to call for the entire records and set aside the order dated 14.08.2009 made in MC.No.131 of 2004 passed by the learned Principal Judge, Family Court, Chennai.

For Petitioner : Mr.R.Vijayakumar

For Respondent : No appearance.

ORDER

The Criminal revision is directed against the order passed by the learned Principal Judge, Family Court, Chennai made in MC.No.131 of 2004 dated 14.08.2009 directing the respondent/husband to pay a sum of Rs.2,500/- each to the petitioner and her son, totally Rs.5,000/-p.m. from the date of petition.

2.The few facts of the case which are relevant for consideration herein are as follows :-

It is admitted by both sides, the marriage between the petitioner and the respondent was held on 04.02.2001 at Ranga Mahal, Chengalpattu according to Hindu Rites and customs. Both of them lived together at Chennai and one male child was born to them. Some dispute arose between the parties, the petitioner left the matrimonial home and filed the present petition for maintenance. The trial Court after considering the evidences of both sides and documents produced by them, directed the respondent/husband to pay a sum of Rs.2,500/-p.m. each to the petitioner/wife and son from the date of petition i.e, 14.03.2004, against which the respondent/husband filed the present revision before this Court.

3.The learned counsel for the petitioner contended that the trial Court without considering the facts and circumstances of the case allowed the maintenance petition filed by the wife. The trial Court ought to have dismissed the application, since, the respondent/wife lodged complaint before the Inspector of Police, All Women Police Station, Tambaram. The trial Court has observed in the order that the respondent/husband has failed to establish about the harassment by the wife in connection with dowry and it has been introduced wantonly. The trial Court also observed, the respondent/wife has no proof to prove the income of the revision petitioner. In the above circumstances, the order of the trial Court directing the revision petitioner to pay a sum of Rs.2,500/-p.m. each to the wife and the son has to be set aside and prays to allow the revision petition.

4.Heard the learned counsel for the revision petitioner and perused the material records. There is no representation on behalf of the respondent either in person or through the learned counsel on record.

5.On perusal of the counter affidavit filed by the revision petitioner in MC.No.131 of 2004, it is specifically stated that how much the revision petitioner is earning and what is the monthly income. It is specifically admitted in the counter that he was running courier business in Alwarpet, Chennai. He stated about the monthly maintenance of Rs.9,000/-p.m. is beyond the provisions of law provided under Section 125 Cr.PC. It is not specifically stated what is the real income of the revision petitioner and he further denies the property worth of Rs.45,00,000/- owned by his mother. It is admitted that he is expecting to get good job at Saudi Arabia presumes that he is capable person to earn income and he is already running courier business at Chennai. The arguments of the learned counsel for the revision petitioner, claiming Rs.4,500/-p.m. + Rs.4,500/-p.m. (totally Rs.9,000/-p.m.) by the respondent/wife, does not comes under the purview of Section 125 Cr.PC. Considering the latest principles of law, the above said argument is not acceptable and deserves no merits and liable to be rejected.

6.Considering the income capacity of the husband, the trial Court after considering the facts and circumstances of the case awarded maintenance of Rs.2,500/-p.m. each to the respondent wife and minor son (totally Rs.5,000/-p.m.) is very much reasonable one and it cannot be deemed as excessive amount. 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 stands dismissed.
Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (J)

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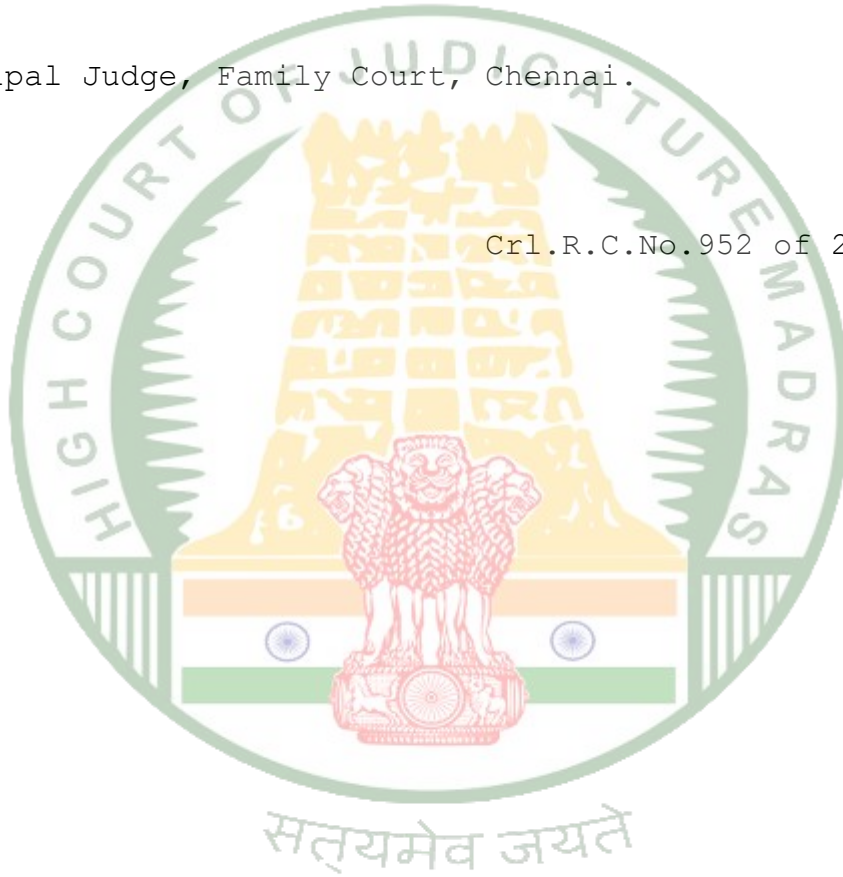
Sub Asst. Registrar

To

The Principal Judge, Family Court, Chennai.

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Crl.R.C.No.952 of 2009



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