

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.09.2016

Dated : 26.10.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.833 of 2016

D.Sumathy .. Petitioner/Petitioner

Vs.

V.Balaji .. Respondent/Respondent

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 27.02.2014 made in MC.No.82 of 2011 passed by the Family Court, Coimbatore.

For Petitioner : Mr.P.Saravana Sowmiyan.

For Respondent : Mr.J.Pothiraj.

ORDER

The Criminal revision is directed against the order dated 27.02.2014 made in MC.No.82 of 2011 passed by the Family Court, Coimbatore.

2.The brief facts which are relevant to the facts of the case are as follows :-

The marriage between the parties was held on 08.06.1995 at Sumankali Hall, Trichy according to Hindu Rites and Customs and out of the wedlock a male child/Pranesh was born to them. It is admitted that the petitioner/wife filed the petition under Section 125 Cr.PC before the Family Court, Coimbatore. The trial Court after considering the entire facts and circumstances of the case dismissed the petition on 27.02.2014. Aggrieved against the said dismissal order, the revision petitioner is before this Court by way of present revision.

3.The learned counsel for the petitioner would mainly contend that the trial Court without application of mind erroneously dismissed the application, the petitioner is an unemployed lady and having no source of income to maintain herself. Hence, the learned counsel prays to set aside the order of the trial Court and to allow the revision.

4.The learned counsel for the respondent submits that the

trial Court after considering the entire facts and circumstances of the case and taking note that the petitioner is an M.Sc., M.Phil graduate in Bio-Chemistry, she can easily get employment and comes to a correct conclusion in dismissing the petition filed by the petitioner. There is no illegality or infirmity in the order of the lower Court and prays for dismissal of the revision petition.

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

6. It is admitted that the revision petitioner is M.Sc., M.Phil graduate in Bio-Chemistry and having worked as lecturer for three years in Park College, Tiruppur, 7 1/2 years in GRD College, Coimbatore and 2 years in Vivekananda College, Tiruchengode. At the time of filing petition, the petitioner is an unemployed and having no sufficient source of income to maintain herself. The respondent in his evidence also stated that the petitioner is earning more than Rs.25,000/-p.m. and she is having other sources of income, the intention of the petitioner is only to harass the respondent, for which she resigned her lecturer job and filed the present petition. The respondent has not produced any proof to show that the petitioner/wife is having some source of income. The son is in the custody of the respondent/husband and he is taking care of his son and there is no dispute between the parties with regard to maintenance of the son. The Ex.P4/salary certificate of the respondent during November 2007, clearly shows that he is earning Rs.20,000/-p.m. Subsequently, the respondent was terminated from his service on 31.10.2011. Since, the marriage is admitted, and the marriage between the husband and wife was not divorced by the competent Court, the respondent is liable to maintain his wife. This Court directs the respondent/husband to pay a sum of Rs.6,000/-p.m. towards maintenance to the revision petitioner/wife from the date of filing maintenance petition i.e., 24.05.2011.

7. Considering the above facts and circumstances of the case, this Court is inclined to award a sum of Rs.6,000/-p.m. towards maintenance to the revision petitioner. The maintenance of Rs.6,000/-p.m. is very much reasonable amount to maintain a lady in the prevailing cost of living.

8.In the result, the criminal revision stands allowed, by setting aside the order dated 27.02.2014 made in MC.No.82 of 2013 on the file of the learned Family Court, Coimbatore.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Family Court, Coimbatore.

+1cc to M/s. P. Saravana Sowmiyan, Advocate, S.R.No.61302

+1cc to M/s. N. Elumalai, Advocate, S.R.No.61214

CNR(CO)
EU 20.12.16

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