

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.883 of 2016

and

Crl.M.P.No.6743 of 2016

Jayakumar ... Petitioner

Vs.

1.Radhamani

2.Swathi

.. Respondents

Criminal Revision filed under Sections 397 and 401 Cr.P.C. against the order made in M.C.No.100 of 2010 dated 30.11.2015 passed by the learned Additional Principal Family Court, Coimbatore.

For Petitioner : Mr.K.S.Karthik Raja
For Respondents : No Appearance

ORDER

This revision arises against the order of learned Additional Principal Family Court, Coimbatore, passed in M.C.No.100 of 2010 dated 30.11.2015.

2.First respondent and second respondent, who are the wife and daughter of the petitioner, preferred maintenance petition in M.C.No.100 of 2010 before the learned Additional Family Court, Coimbatore. On 30.11.2015, Court below while refusing maintenance to the first respondent/wife, has directed payment of a sum of Rs.5000/- per month to the second respondent/daughter.

3.Learned counsel for petitioner submits that Court below has directed payment of maintenance to the second respondent/daughter despite the submission that she was married and is not entitled for maintenance. Learned counsel for petitioner submitted that petitioner sought for medical

examination of second respondent towards establishing that she had given birth to a child and though petitioner petition was allowed, second respondent had not co-operated with the order of the Court for medical examination. He further submits that learned Judge dismissed the petition merely holding that if a woman begot a child it cannot be presumed that she was married and further observed that petitioner had not proved the factum of marriage through independent evidence.

4. In circumstance where second respondent has not co-operated for medical examination, the presumption necessarily would be that the contention of petitioner is true.

In view of the above, the Criminal Revision Petition shall stand allowed. The order of learned Additional Principal Family Court, Coimbatore, passed in M.C.No.100 of 2010 dated 30.11.2015., shall stand set aside. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

DP

To

The Additional Principal Family Court,
Coimbatore

+1cc to Mr.K.S. Karthik Raja, Advocate, S.R.No.64590

lrs (CO)
md(09/12/2016)

CrI.R.C.No.883 of 2016