

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.08.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.902 of 2016

and Crl.MP.No.6920 of 2016

A.Thirunavukkarasu

... Petitioner

Vs.

D.Savithiri

... Respondent

Prayer:- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to call for the records pertaining to the order dated 17.03.2016 made in FCMC.No.80 of 2014 on the file of the Family Court, Vellore and set aside the same by allowing this criminal revision

For Petitioner : Mr.S.Makesh

For Respondent : Notice served - No appearance.

ORDER

The present Criminal Revision is directed against the order passed by the learned Family Court, Vellore in FCMC.No.80 of 2014 dated 17.03.2016, directing the respondent/husband to pay the monthly maintenance of Rs.4,000/-p.m. to the petitioner/wife.

2.The learned counsel for the petitioner would contend that respondent has not taken any steps to come back to the matrimonial home. Subsequently, after getting divorce from the respondent the revision petitioner got second marriage and having three children and he is in the verge of his retirement. The trial Court further failed to consider that the petitioner's retirement stage and directed him to pay a sum of Rs.4,000/- towards maintenance is very much excessive one and awarding maintenance beyond the period of one year cannot be sustained. Hence, the learned counsel prayed to set aside the order of the trial Court.

3.Though, notice was duly served on the respondent, there is no representation on behalf of the respondent either in person or through the learned counsel on record. Hence, the name of the respondent is printed in the cause list.

4.Heard the learned counsel for the petitioner and perused the entire records.

5.It is admitted by the revision petitioner that marriage between himself and the respondent/wife was held during the year 1984 according to Hindu Rites and rituals, due to the marriage wedlock they had a son. The son of the revision petitioner got married on 28.08.2009. The revision petitioner was not informed about the marriage and he has not attended the marriage of his son. The revision petitioner was employed in Tamil Nadu State Transport Corporation and he is in the verge of his retirement, the revision petitioner has not produced any salary certificate issued by his employee/Transport Corporation. The main arguments of the revision petitioner is that the respondent/wife claims maintenance after number of years and the son of the revision petitioner through his wife is also earning a sum of Rs.10,000/-p.m. and further the respondent/wife herself is also earning a sum of Rs.20,000/-p.m through the immovable asset.

6.The arguments of the learned counsel for the petitioner is that the son of the revision petitioner through his wife is also earning a sum of Rs.10,000/-p.m. is not a ground to deny the liability of the revision petitioner to maintain his wife. Admittedly, no documents was produced on either side to show that they got legally divorced. The revision petitioner admitted that the respondent is legally wedded wife and he is liable to pay maintenance, irrespective of the fact that he is in the verge of his retirement. No documents or evidence has been produced on the side of the husband to show that the wife is earning a monthly income of Rs.20,000/-p.m. out of immovable property to maintain herself. In the absence of any such documents put forth on the side of the revision petitioner to show that the wife is independently having source of income to maintain herself, the revision petitioner is liable to pay maintenance to his wife. The fact that the revision petitioner married second wife and out of the said wedlock he got three children, the burden of revision petitioner to maintain second wife and three children is not a valid ground to reject the claim of the first wife. This Court finds no illegality or infirmity in the order passed by the learned Family Court, Vellore and the same does not warrant any interference by this Court and the sum of Rs.4,000/-p.m. towards maintenance cannot be deemed as excessive amount during present days.

7.In the result, the criminal revision petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

tsh

To
The Family Court, Vellore.

Copy to :

The Section Officer,
Criminal Section,
High Court, Madras-104.

+1 CC to Mr.S.Magesh, Advocate SR.No.49412/16

CO-PA
ths : 18.10.2016

Crl.R.C.No.902 of 2016



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