

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Orders reserved on : 23.09.2016)

Date of verdict on : 25.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

CRIMINAL REVISION CASE No.941 of 2016
and
CRL.M.P.No.7378 of 2016

P.Madheswaran

.. Petitioner

vs.

M.Nithya

.. Respondent

Criminal Revision Case filed under Sections 397 and 401 of Code of Criminal Procedure praying to set aside the order dated 31.03.2016 passed in M.C.No.32 of 2012 on the file of the Judicial Magistrate, Tiruchengode.

For Petitioner ... Mr.S.Vinod

For Respondent ... Mr.K.S.Kumar

O R D E R

This Criminal Revision Case is directed against the order dated 31.03.2016 passed in M.C.No.32 of 2012 on the file of the learned Judicial Magistrate, Tiruchengode.

2. The learned counsel for the revision petitioner mainly contended that even though the revision petitioner/husband though willing to take the respondent/wife to the matrimonial life, she has not shown any interest to rejoin with the petitioner. Further, the learned counsel for the petitioner contended that the respondent is a practicing advocate and she is having sufficient means to maintain herself and hence, she is not entitled to claim maintenance from her husband.

3. Further, the learned counsel for the revision petitioner contended that the respondent/wife is voluntarily living away from the petitioner and unnecessarily, she filed a petition under Domestic Violence Act against the revision petitioner and his family members. Thereafter, she filed a petition before the trial Court seeking maintenance and the same is not at all maintainable. But, the trial Court without appreciating the facts and circumstances of the case, erroneously allowed the petition by directing the revision petitioner to pay a sum of Rs.20,000/- p.m to the respondent. Therefore, the impugned order passed by the learned trial Judge is liable to be set aside and the criminal revision case has to be allowed.

4. The learned counsel for the respondent mainly contended that due to the harassment made by the revision petitioner, the respondent/wife is not willing to join with him. Hence, she filed a petition for maintenance and the trial Court after considering the facts and circumstances of the case and also considering the status of the revision petitioner, rightly, allowed the petition by directing the revision petitioner to pay a sum of Rs.20,000/- p.m as maintenance. Hence, he prayed that the criminal revision case has to be dismissed.

5. Heard the learned counsel appearing for the revision petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

6. Admittedly, the marriage between the revision petitioner and the respondent was solemnized on 07.06.2009 and registered on 07.12.2009. It is also admitted that the revision petitioner is working as Computer Engineer in USA. According to the respondent, though she is an advocate, now she is not practicing and she is not earning any income. Hence, she cannot maintain herself. Though the revision petitioner stated that the respondent is earning a sum of Rs.50,000/- p.m, and she can maintain herself, he has not produced any document to prove the same.

7. Under such circumstances, the contention made by the learned counsel for the revision petitioner that though there are serious allegations between the parties, the revision petitioner took steps to reunion, but the respondent is not willing to join with the revision petitioner, is not at all acceptable.

8. On a perusal of records, it is seen that the trial Court awarded a sum of Rs.20,000/- p.m as maintenance to the respondent. The revision petitioner was working as a Computer Engineer in USA and subsequently, he returned to India. Further, it is not denied on the side of the revision petitioner that the revision petitioner is earning a sum of Rs.1,50,000/- per month.

Considering the above facts and circumstances, the trial Court, rightly, awarded a sum of Rs.20,000/- p.m as maintenance. Therefore, this Court finds that there is no illegality or infirmity in the impugned order passed by the trial Court. Hence, the Criminal revision case is liable to be dismissed.

9. In the result, order dated 31.03.2016 passed in M.C.No.32 of 2012 by the learned Judicial Magistrate, Tiruchengode is confirmed

and the criminal revision case is dismissed. Consequently, connected criminal miscellaneous petition is closed.

10.2016

Index:Yes/No
Internet:Yes/No

Note:

Issue order copy
on 26.10.2016.
To

- 1.The learned Judicial Magistrate,
Tiruchengode.
- 2.The Public Prosecutor,
High Court, Madras.

G.CHOCKALINGAM.J

cla

**Pre-delivery order in
Crl.R.C.No.941 of 2016**

.10.2016