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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2016

CORAM:

THE HONOURABLE Dr.JUSTICE P.DEVADASS

Cr1.R.C. (MD)No.434 of 2015

and

M.P. (MD)No.1 of 2015

Sudhakar @ Venkat Ragavan

... Petitioner/Respondent

Vs.

Soundaravalli

... Respondent/Petitioner

Prayer: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., against the order made in M.C.No.15 of 2014 by the Family Court, Dindigul dated 08.04.2015.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.R.Gandhi

ORDER

In this revision an husband fights against his wife.

2.Revision petitioner joined in wedlock with respondent in 2009. They have no issues, but have issues. She belongs to Dindigul. He belongs to Palani. He is a Commercial Inspector in TANGEDCO. They fell apart. She is now in her parents' house in Dindigul.

3.Finding unable to maintain herself to meet her day today expenses as well as her growing medical expenses in view of renal failure she sought for maintenance from her husband in M.C.No.15 of 2014.

4.The learned Judge, Family Court, Dindigul, considered the plight of the respondent and the financial position of the revision petitioner and directed him to pay Rs.6000/- per month to the respondent from the date of filing of the petition.

5.As the said order is not to his liking the revision petitioner came to this Court questioning the legality of the said order.

6.The learned counsel for the revision petitioner would submit that the revision petitioner is suffering financially very much. His take home salary is only around Rs.11,465/- per month. Further the revision petitioner is heavily indebted. He has to discharge the loans.



7. On the other hand, the learned counsel for the respondent would submit that the revision petitioner is well paid. The respondent is not well. She is suffering out of renal failure. She has to undergo dialyses every week. For each time she has to pay Rs.3,000/-. Her condition is pitiable. She has no money to meet the growing medical expenses.

8. The learned counsel for the respondent would submit that the revision petitioner is staying in his own house in Palani. He has agricultural income. Purposely he has availed of loans such as Cooperative loan and he took LIC policy for a huge amount, in his name. These are all his self creations. They are intended to woodwink the Court. In such circumstances, the Trial Court has granted Rs.6,000/- per month. Actually what was granted itself is less. But, the revision petitioner has no heart even to pay that amount. The learned counsel for the respondent submitted that revision petitioner's mother is having separate property.

9. I have dispassionately considered the passionate submissions of both sides, perused the impugned order and the materials on record.

10. Now the respondent is in her parents house. The revision petitioner, is bound to maintain her. The Court must take into account the financial position of the wife and also financial capacity of the husband. But Court must also see whether the wife has abandoned her husband.

11. Now in this case, it is beyond pale of any controversy that the respondent is suffering from renal failure. Undoubtedly the husband has to take care of her health. Now even after marriage the respondent has become a burden to her parents.

12. The revision petitioner is a Commercial Inspector in TANGEDCO. He receives gross salary of Rs.26,000/- and odd. After deductions his pay pocket comes to only Rs.11,645/- p.m. Certain deductions appears to be his own creations, such as LIC, Society loan. There is no statutory compulsion on his part to get the said loans.

13. In such circumstances, the learned Magistrate fixed a minimum of Rs.6,000/- p.m. as maintenance. It is pertinent to note that salary will rarely be decreased. There were periodical upward revision in his pay and D.A.

14. In view of the foregoing, this Criminal Revision Petition fails and it is dismissed. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/



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To தலைவர்

The Judge, Family Court, Dindugal.

+1cc to M/s.R.Gandhi SR.28229

+1cc to M/s.D.Venkatesh SR.28182

nbg

JA-SKS-RR/SAR.I/16.6.2016/2P-4C

CrI.R.C. (MD) No.434 of 2015
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