



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2016

CORAM:

THE HONOURABLE DR. JUSTICE P.DEVADASS

C.R.L.RC(MD) No.582 of 2015

M.Perumal

... Petitioner / Respondent

-vs-

Bharati

... Respondent / Petitioner

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records relating to the order, dated 22.09.2015 made in M.C.No.8 of 2014, on the file of the Family Court, Tirunelveli, set aside the same by allowing the present criminal revision petition.

For Petitioner: Mr.A.Sivasubramanian

For Respondent: Mr.P.Samuel Gunasingh

O R D E R

In this revision, an husband challenges the grant of monthly maintenance of Rs.6,000/- ordered by the learned Judge, Family Court, Tirunelveli to the respondent.

2. Earlier, the revision petitioner and the respondent were spouses. Now, by a Court order, they have become no longer spouses, because their marriage was dissolved by the Family Court. Now, they have become Ex-Husband and Ex-Wife. But, as per Section 125 Cr.P.C., dissolution of marriage will not exonerate the husband from paying maintenance to his ex-wife.

3. The revision petitioner is a car driver. Taking note of the materials produced, Rs.6,000/- has been ordered as maintenance.

4. It is the contention of the learned counsel for the petitioner that as the respondent was living in adultery, she is not entitled to maintenance. The petitioner availed of car finance from Sri Ram Finance and he has to pay installments. Subsequently, due to non-payment of the same, his car was also seized by the financier. Now, he lost his source of income.

5. On the other hand, the learned counsel for the respondent would submit that Ex.R5 would show that the revision petitioner has availed of car finance. But, there is no proof that his car



has been seized by the financier. Even then he is continued to be a driver.

6. I have anxiously considered the rival submissions, perused the impugned order and also the materials on record.

7. There is no evidence to establish that the respondent was living in adultery. Even, the divorce decree was granted not on the ground of adultery, it was granted on some other grounds. Even if the petitioner availed of car finance and the car has been taken away, he continued to be a driver. He cannot remain idle. For the purpose of Section 125 Cr.P.C., ability to earn is considered as his having means. In the circumstances, we do not find fault with the impugned order passed by the Trial Court.

8. In view of the above, this revision fails and it is dismissed.

Sd/
Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To:
The Judge,
Family Court, Tirunelveli.

+1cc to M/S.P.Samuel Gunasingh, Advocate in SR.No.28906

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