



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

Crl. R.C. (MD) No.9 of 2016

Crl.M.P. (MD) No.191 of 2016

N.Lakshmana Selvan

... Revision Petitioner/
Respondent

-vs-

T.N.Selva Lakshmi

... Respondent/Petitioner

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records pertaining to the order passed in M.C.No.21 of 2015 on the file of the Family Court, Tirunelveli dated 03.11.2015 and set aside the same in the interest of justice.

For Petitioner: Mr.T.Selvan

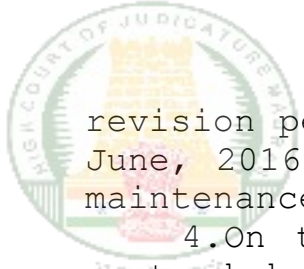
For Respondent: Mr.M.P.Senthil

O R D E R

Aggrieved by the grant of maintenance to the respondent, the revision petitioner directed this revision.

2.On 12.06.2011, the revision petitioner married the respondent according to Hindu rites and customs. They were not blessed with issues. However, family quarrel arose between them. In H.M.O.P.No.253 of 2014, in the Family Court, Tirunelveli, the respondent sought for divorce on the ground of cruelty. In the very same Court, the present revision petitioner sought for divorce in H.M.O.P.No.194 of 2013 on the same ground. Thus, it is double divorce petition. On 29.01.2015, in the petition filed by respondent in H.M.O.P.No.253 of 2014, she was granted divorce, while the petition filed by the revision petitioner in H.M.O.P.No.194 of 2013 was dismissed. Thus, with effect from 29.01.2015, both have become divorcees. The legal consequence is that they have become ex-husband and ex-wife. Of course, they are not strangers. Another legal consequence is as per explanation (b) to Sub-Section (2) of 125 Cr.P.C., the respondent became entitled to maintenance from her former husband/revision petitioner. The Family Court, Tirunelveli on 03.11.2015, granted Rs.8,000/- per month to the revision petitioner in M.C.No.21 of 2015. Aggrieved, her former husband has directed this revision.

3.According to learned counsel for the revision petitioner, now the respondent has become another man's wife. However, now the revision petitioner has relegated to his original position, namely, bachelor. According to the learned counsel for the



revision petitioner, the respondent has married another man during June, 2016. In such circumstances, she became not entitled to get maintenance from her former husband.

4. On the other hand, the learned counsel for the respondent contended that the revision petitioner is owning several cars, earning very good amount, he has very good financial position. But there is no material to show that the respondent has married another man.

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

6. Admittedly, there is no material to show that the respondent was having any independent source of income. Now, she has become a divorcee. As per law she is entitled to maintenance. The revision petitioner is a fleet owner. A man of very good means. In such circumstances, ordering of Rs.8,000/- by the trial Court is to be sustained.

7. The ex-wife is entitled to maintenance from her former husband respectively as long as she remains unmarried. Once she contracts another marriage she became disentitled to maintenance from her former husband. However, this has to be established.

8. When it is so established, under Section 127 Cr.P.C., the trial Court can cancel the maintenance order. Therefore, if the revision petitioner is having acceptable materials with record to her subsequent marriage, it is open to the revision petitioner to approach the trial Court by filing a petition under Section 127 Cr.P.C.

9. In the light of the above, this revision fails and it is dismissed with the observation and liberty to the petitioner to move the Family Court, Tirunelveli under Section 127 Cr.P.C. with required materials and if such a petition is filed the trial Court will adjudicate it according to law.

10. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AE)

/TRUE COPY/

Sub Assistant Registrar

To:

The Judge, Family Court, Tirunelveli.
+1cc to M/S.M.P.SENTHIL, ADVOCATE 48024
+One cc to M/S.T.SELVAN, Advocate, SR.No.48218
SJ
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