



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2016

CORAM

THE HONOURABLE MR.JUSTICE V.S. RAVI

Crl.R.C.(MD).No.93 of 2016

M.Ravikumar

... Revision Petitioner

Vs.

1. R.Geetha
2. Akilandeswari
3. Jeyalakshmi
(3rd respondent represented through
1st respondent by her mother
and natural guardian)

... Respondents

PRAYER : Criminal Revision Case is filed under Sections 397 r/w 401 of Cr.P.C, to call for the records relating to the order passed by the Family Court, Tiruchirappalli in M.C.No.88 of 2014, dated 20.11.2015 and to set aside the same and to allow the Revision Petition filed under Criminal Procedure Code and to pass such further order as this Court may deem fit and proper in the above facts and circumstances of the case.

For petitioner : Mr.P. Ganapathi Subramanian, Advocate

Order Reserved on : 15.03.2016

Order Pronounced on : 26.04.2016

O R D E R

The revision petitioner is the husband of the first respondent. The respondent Nos.1 to 3 have filed M.C.No.110 of 2013, before the learned Chief Judicial Magistrate, Tiruchirappalli, which has been transferred to the Family Court, Tiruchirappalli and renumbered as M.C.No.88 of 2014. The first respondent/wife has stated in M.C.No.88 of 2014 that the marriage between herself and the revision petitioner viz., Ravikumar has been solemnized on 25.03.1993, as per the Hindu rites and customs. Further, it has been stated by the first respondent that after marriage, the first respondent and her husband have lived in a joint family and they have got three female children. Further, it has been stated that the Revision Petitioner is doing Gold Jewels business and earning Rs.50,000/- and the revision petitioner is having the habit of drinking Liquor and he is also having illicit intimacy, with other women and also, he is having so many bad habits, and due to the said reasons, there arose the dispute between the first respondent and the revision petitioner, on several occasions and the revision petitioner has suspected the character of the first respondent, at the time of the birth of the third child and the revision petitioner, used to scold the first respondent, with filthy language and also, he has sent out, the

first respondent from his house. Furthermore, it has been stated by the first respondent that the father of the first respondent has lodged the Complaint as against the revision petitioner and the same, has been enquired by the police and thereafter, the revision petitioner has lived with the first respondent only for 11 months and the fourth female child, also born and expired and the revision petitioner has tortured the first respondent, for want of a male child and on 24.07.2002, the revision petitioner has gone out from his family and thereafter, on 22.08.2002, he has cheated the first respondent and got her signature in the document and thereafter, the revision petitioner has not taken care of his family and the first respondent only, is taking care of her children and also, the first respondent came to know, in the year 2006 that the revision petition has married with one Kalpana, as the second wife and the revision petitioner has also got, one female child, through the said Kalpana. Therefore, the first respondent has come forward to file the petition, under Section 125 of Cr.P.C., claiming Rs.10,000/- as monthly maintenance for the first respondent and Rs.5,000/- each as monthly maintenance for the respondent Nos.2 and 3, from the date of filing of the petition.

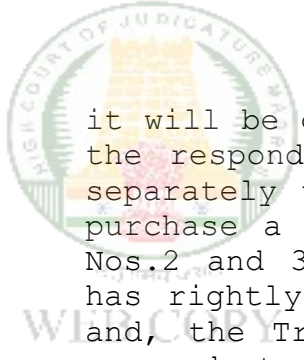
2. The Family Court, Tiruchirappalli has passed Order in M.C.No.88 of 2014 (filed by the respondents), dated 20.11.2015 and it has been clearly observed in para No.10, as follows:-

“...திருமண முறிவு உடன்படிக்கை பத்திரம் செல்லாது என்றாலும் கூட, இருவரும் 11 வருடங்களாக, சேர்ந்து வாழாமல் இருப்பது எம்சாஆ2 மூலம் அறிய முடிகிறது. 1வது மனுதாரர் குற்றவியல் நடைமுறைச்சட்டம் பிரிவு 125(4)(5)ன் பிரகாரம் இருவரும் பிரிந்து வாழ்வதாக கூறி ஒத்திசைவு பத்திரம் தயார் செய்துள்ளதால், 1வது மனுதாரரை பொறுத்தவரை அவர் கோரியபடி அவருக்கு ஜீவனாம்சம் பரிகாரம் கிடைக்கத்தக்கதல்ல என்று இந்நீதிமன்றம் முடிவு செய்கிறது.”

Further, in the said order, it has been observed that the claim of the first respondent has been dismissed and the revision petitioner has been directed to pay Rs.3,000/- each to the respondent Nos.2 and 3, within 5th day of every English calendar month, from the date of filing of the petition, as they are the unmarried daughters, of the revision petitioner herein.

3. Being aggrieved the said order dated 20.11.2015 passed in M.C.No.88 of 2014, by the Family Court, Tiruchirappalli, the revision petitioner/husband has filed the present Criminal Revision Petition, and primarily contended that the impugned order of the Family Court is against law and facts and circumstances of the case.

4. Further, it is stated in the Grounds of Revision that the Trial Court has failed to appreciate the fact that the respondent Nos.2 and 3 herein are majors and as such, they are not entitled to claim any maintenance from the revision petitioner. The first respondent is having sufficient means to maintain the respondent Nos.2 and 3 and the revision petitioner is not able to maintain himself and as such the maintenance petition itself not maintainable. The Trial Court has failed to assign
<https://hcservices.crcassgn.in/hcservices/> awarding Rs.3,000/- each, as maintainance to the respondent Nos.2 and 3. Further, the revision petitioner has clearly proved the fact that he is earning Rs.10,000/- per month only, and hence,



it will be difficult for him to pay a sum of Rs.6,000/- as maintenance to the respondent Nos.2 and 3. The first respondent is voluntarily living separately with the respondent Nos.2 and 3(daughters) and also, able to purchase a valuable house property at Trichy and as such the respondent Nos.2 and 3 are also not entitled for any maintenance. The Trial Court has rightly rejected the claim of maintenance for the first respondent, and, the Trial Court has erred in granting maintenance amounts for the respondent Nos.2 and 3. The Trial court has failed to appreciate the fact that the deed of Divorce dated 22.08.2002 marked as Ex.R.1 has been executed by the respondents, in the presence of her father and there is no coercion on the part of the revision petitioner, in the execution of the said document.

5. The pertinent point that arises for consideration in the present Criminal Revision Petition which has been filed as against the Order passed in M.C. No. 88 of 2014, is as follows:-

Whether the present Criminal Revision Petition has to be allowed for the reasons and grounds stated in the said Revision Petition and also for the submissions made on behalf of the revision petitioner?

6. Analysis, discussions and findings with regard to the above mentioned point :-

This Court has considered the submissions of the learned counsel appearing for the revision petitioner and also, perused the impugned Judgment passed by the Trial Court, and also, the material available on record. In the present case, the first respondent herein has filed the Maintenance petition before the Trial Court, claiming Maintenance, as against the revision petitioner herein, namely, the husband of the first respondent. Further, in the counter affidavit itself, the respondent/revision petitioner herein has clearly admitted that the marriage has been solemnized between the revision petitioner herein and the first respondent on 25.03.1993 and thereafter, Shanthoshimala also, born to the revision petitioner herein and the first respondent on 21.12.1993 and thereafter, on 22.05.1995, Akilandeswari, namely, the second respondent, also, born to them and again on 06.02.1997, Jeyalakshmi, namely, the third respondent, also, born to them. Further, the revision petitioner herein has admitted in the counter affidavit that he is selling golden ornaments, like Nose Stead and Ear Stead, by going to other places and other states and due to the said business, the revision petitioner herein is earning monthly commission amount of Rs.10,000/-. Further, the revision petitioner herein has admitted that the petitioner herein and the first respondent are not living together as husband and wife, for the past 11 years. Further, the revision petitioner herein has stated that the Maintenance petition, filed by the petitioners/respondents herein, is not sustainable in law.

7. Further, the revision petitioner herein has filed Ex.R.2, the dissolution of Marriage Deed executed between the revision petitioner herein and the first respondent herein. Further, the revision petitioner herein has stated in the counter affidavit that the first respondent herein is earning substantial amount, by doing business and hence, she can very well maintain the respondents Nos.2 and 3 also. However, the revision petitioner herein has not established the same, by



producing any acceptable records and documents. On the other hand, the first respondent herein has clearly stated that there is no source of income for the respondent Nos.2 and 3 and as a father, the revision petitioner herein, has to maintain the respondent Nos.2 and 3, namely, the unmarried daughters, born to the revision petitioner herein and the first respondent.

8. On a perusal of the impugned order, the Trial Court has rightly observed that the respondent Nos.2 and 3 are unmarried and they do not have any separate income, and the revision petitioner herein has to maintain his daughters, namely, the respondent Nos. 2 and 3, as the father. Accordingly, the Trial Court has awarded Rs.3,000/- each to the respondent Nos.2 and 3, towards Maintenance. Further, the revision petitioner has stated that even in the agreement dated 22.08.2002, the first respondent has agreed for not claiming any maintenance, from the revision petitioner herein. However, it is found that the revision petitioner herein is having the statutory duty to maintain the respondent Nos.2 and 3, namely, the daughters, born to the revision petitioner herein and the first respondent. The contractual agreement cannot supersede the statutory duty of the revision petitioner herein, to maintain his daughters, namely, the respondent Nos.2 and 3.

9. Further, the revision petitioner herein has filed Ex.R.1, Dissolution of Marriage Deed. However, the revision petitioner herein has miserably failed to prove that the respondent Nos.2 and 3 are having sufficient source of income and also, the respondent Nos.2 and 3 are getting sufficient income for maintaining themselves. After taking into consideration the entire material available on record, only, the Trial Court has directed the revision petitioner herein to pay Rs.3,000/- each, as maintenance, to the respondent Nos.2 and 3, namely, the daughters of the first respondent and the revision petitioner herein. Further, the Trial Court has rightly observed that the revision petitioner has not proved that the respondent Nos.2 and 3 are working and earning money and they can maintain themselves, without getting Maintenance amount from the revision petitioner herein. Further, it is seen that the respondent Nos.2 and 3 do not have any source of income to maintain themselves and they are also unmarried.

10. Further, it is specifically pointed out that the ends of justice are certainly higher than the ends of mere law, which is only meant to subserve justice. It is, certainly, in the interest of justice, the revision petitioner herein has to maintain the respondent Nos.2 and 3, who are born to him. Further, it is found that there is no direct and glaring defect in the impugned order passed by the Trial Court. Further, there is no legal evidence submitted by the revision petitioner herein to support that the respondent Nos.2 and 3 are having sufficient means to maintain themselves. Further, in the ultimate analysis, this Court finds that the impugned order, has been passed by the Trial Court, in an appropriate manner.

11. Further, the Provisions of Section 397 of Cr.P.C., gives the High Court jurisdiction to consider the correctness, legality or propriety of finding, or order and as to the regularity of the proceedings of any inferior court. While considering the legality, propriety or the correctness of a finding or a conclusion, normally, the revising Court does not dwell at length upon the facts and evidence of



the case. The Court in revision considers the materials only to satisfy itself about the correctness, legality and propriety of the findings, or order.

12. Further, this Court finds no illegality, impropriety or jurisdictional error in the impugned order under challenge. Further, the order impugned indicates the proper application of mind, on the facts or the pleas raised before the Trial Court. The reasons, are clearly indicated in the impugned order, and also, it is true that it may depend upon the nature of the matter which is being dealt with by the Court. In an order of Maintenance matters, mere ritual of repeating the words or language used in the provisions, saying that illegality, impropriety or jurisdictional error is found in the Order under challenge, does not meet the requirement of decision of a case, judicially. Further, it is seen that the Trial Court has passed impugned order in an appropriate way, and also, in accordance with law. Further, the Trial Court has examined the material records for the purpose of satisfying itself about legality, propriety and correctness of the order passed, in the present case.

13. On a careful scrutiny of the entire records, it is found that the Trial Court has passed impugned order, after taking into consideration all the relevant facts and circumstances in proper manner and the quantum of Maintenance awarded by the Trial Court cannot be said to be exorbitant, which does not warrant interference in this revision case and the Revision Petition is dismissed. Thus, the point is answered, as against the revision petitioner herein.

14. ***In the result,*** this Criminal Revision Case is dismissed, and the Order passed in M.C.No.88 of 2014, dated 20.11.2015, on the file of the learned Judge, Family Court, Thiruchirappalli is confirmed. Consequently, connected Miscellaneous Petition No.1 of 2015 is also closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To:

The Judge,
Family Court,
Thiruchirappalli.

PMU
TE/SKS-RR/ : 05/05/2016 : 5P/2C

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