

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2017

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

Crl.R.C.No.1262 of 2017
and
Crl.M.P.No.12277 of 2017

M.Jagadesan

... Petitioner

Vs.

B.Mohana

... Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C. to set aside the order dated 13.10.2015 in F.C.M.C.No.44 of 2015 by the Family Court, Chengalpattu by allowing this criminal revision petition.

For Petitioner : Ms.A.Sumathy

O R D E R

This criminal revision case has been filed against the order dated 13.10.2015 passed by the learned Family Court, Chengalpattu in F.C.M.C.No.44 of 2015.

2. The very short facts which are required to be noticed for the disposal of the criminal revision is as follows:- The respondent herein claiming to be a legally wedded wife of the petitioner herein, had filed the above referred maintenance case before the trial Court, on the ground that though the respondent being the legally wedded wife of the petitioner/husband, he is not living with her and deserted her and in fact, he sent the respondent/wife from the matrimonial home and because of which, she is living along with her parents.

3. However, the said maintenance case filed by the respondent/wife was resisted by the petitioner/husband on the ground that the respondent is not a wife of the petitioner and no marriage was performed between them and the respondent is never being a wife of the petitioner, as the petitioner had already got married in the year 1980 and he has been living with his wife and three children and in order to extract money from the petitioner, who is a railway employee, the maintenance case was filed before the trial Court and therefore the same has to be rejected.

4. The trial Court after considering the stand taken by both the petitioner as well as the respondent, who are the respondent and the petitioner before the trial Court, has given judgment by which directing the petitioner to pay a sum of Rs.3,000/- (Rupees three thousand only) towards the respondent for monthly maintenance, against which the present revision has been filed.

5. I have heard Ms.A.Sumathy, learned counsel appearing for the petitioner who would state that the respondent is not at all the wife of the petitioner, as there was no relationship between them as no marriage was conducted or solemnised between them and therefore the respondent/wife, according to the petitioner, is the third party and in order to extract money from him the said maintenance case was filed before the trial Court and the trial Court has also, without even considering the merits of the issue, ultimately, directed the petitioner to pay a sum of Rs.3,000/- to respondent/wife as monthly maintenance, which is unjustifiable and hence the present revision has to be entertained.

6. I have considered the said submission made by the learned counsel appearing for the petitioner and gone through impugned judgment.

7. In support of the case on the side of the respondent/wife, she filed document and proof before the trial Court to state that marriage was solemnised between the respondent and petitioner on 19.01.2011 and in this regard Ex.P1 to P9 were marked and three witnesses were examined. The respondent herself was examined as P.W.1.

8. Ex.P1 is the marriage invitation for the alleged marriage between the petitioner and the respondent. Ex.P2 is the photo taken at the time of marriage. Ex.P3 is the copy of the family card of the petitioner and respondent. Ex.P4 is the receipt issued by one Sri lakshmi Narasimma Swamy Temple at Palayaseevaram on 19.01.2011, on the date of which the marriage was claimed to be solemnised between the petitioner and the respondent. Ex.P5 is the notice issued by the Oriental Insurance Company dated 20.12.2011 to show that the petitioner had taken insurance in the name of the respondent and Ex.P6 is the medical certificate issued on 24.01.2011 by the Doctor concerned to the respondent and Ex.P7 is the copy of the complaint given by the respondent against the petitioner before the police station.

9. After having considered all these documents and deposition of P.W.1, P.W.2 and P.W.3 on the side of the respondent/wife, the trial Court has given right conclusion that even though the petitioner/husband has got already married and he is living with three children, had in fact, married the respondent also. Even though the trial Court has refused to accept the invitation for the marriage between the

petitioner and respondent as the name of the printing press has not been mentioned, however, accepted the Ex.P2 i.e., the marriage photo and the other documents. Based on these documentary evidence as well as deposition of the parties, the trial Court has given the right conclusion that in spite of the earlier marriage which was solemnised between the petitioner and his first wife, he married the respondent as second wife and was living with her for some time. Therefore, the petitioner has to maintain the respondent.

10. In this regard, the learned trial Judge, taken into account, the responsibility of the petitioner to maintain his first wife and the children, out of the first wife, has given a direction to the petitioner to pay a sum of Rs.3,000/- per month towards monthly maintenance to the respondent herein.

11. On considering all those aspects and after having gone through the judgment impugned, this Court is of the considered view that, there is absolutely no impropriety or illegality attached with the impugned order. Insofar as the quantum is concerned, only a very minimum amount of Rs.3,000/- per month was directed to pay, as monthly maintenance and without this merger amount, it cannot be expected one can lead a life in the present day context and therefore, the quantum of maintenance is also required no interference from this Court.

12. In view of the above said situation and facts and circumstances, this Court is not inclined to entertain this criminal revision case. Accordingly, the same is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

AT
To

The Judge,
The Family Court,
Chengalpattu.

Cr1.R.C.No.1262 of 2017
and Cr1.M.P.No.12277 of 2017

RSY (CO)
EU (10/11/2017)