

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Criminal Revision Case No.768 of 2014

and

M.P.Nos.1 of 2014 & 2 of 2015

R.Aravindan

.. Petitioner

Vs

1.Mrs.A.Archana

2.Krithika Sai (minor),
rep. By her mother and natural
Guardian the first petitioner

..

Respondents

Prayer :-

This Criminal revision is filed under Section 397 and 401 of Cr.P.C., to call for the entire records in M.C.No.142 of 2010 on the file of the principal Family Court, Chennai and set aside the order dated 07.03.2014.

For petitioner : Mr.Thirupathikumar

For respondent : Mr.A.Mohan

O R D E R

Challenging the order of awarding the maintenance, passed by the learned Principal Judge, Principal Family Court, Chennai in M.c.No.142 of 2010 dated 07.03.2014, the petitioner/husband had filed the revision.

2. The first respondent herein is the wife and the second respondent is the minor daughter of the petitioner. Earlier the first respondent filed an application, under Section 125 Cr.P.C., seeking maintenance for a sum of Rs.15,000/- per month for the herself and on behalf of her minor daughter/second respondent. The Court below allowed the

application and directed the petitioner to pay a sum of Rs.3000/-per month to the first respondent/wife and Rs.2000/- per month for the second respondent/daughter, totalling a sum of Rs.5000/- per month. Now challenging the above order, the petitioner/husband filed the present revision.

3. Mr. Thirupathikumar, learned counsel appearing for the petitioner would submit that the first respondent is a B.E graduate and she is also employee and she is having sufficient means to maintain herself and the child. Apart from that, the first respondent has also voluntarily deserted the petitioner and living separately. Hence, she is not entitled for maintenance.

4. Per contra, Mr.A.Mohan, learned counsel appearing for the respondents would submit that even though the first respondent was employee in the year 2009, subsequently, she is unemployed and she is struggling to maintain herself and the minor children. The petitioner has harassed the first respondent/wife and driven her out of the house and the first respondent has not voluntarily left the matrimonial house and she is entitled for maintenance.

5. I have heard the rival submissions made on both sides and perused the materials available on record carefully.

6. So far as the first contention of the learned counsel for the petitioner that the first respondent is employed and having sufficient means to maintain herself, absolutely there is no evidence available on record to show that the first respondent is employed and she has sufficient means to maintain herself and the child.

7. Regarding next contention of the learned counsel for the petitioner that the first respondent has voluntarily deserted the petitioner and living separately, now that the first respondent/wife filed a petition seeking divorce on the ground of cruelty and it is pending. If the contention of the petitioner/husband is true, he could have file an application for Restitution of Conjugal Rights or take any steps to live with the first respondent. So far, he has not taken any steps in this regard and as such, it cannot be held that the first respondent had voluntarily deserted the petitioner.

8. Considering all the above facts, the trial court granted maintenance. It is stated that the petitioner is a Sidha Doctor and having sufficient means and the lower Court also awarded a meagre sum of Rs.3000/- for the first respondent and Rs.2000/- for the second respondent/minor daughter.

9. In the above circumstances, I find no illegality or irregularity in the order passed by the Court below. hence, the revision deserves to be dismissed.

10. Accordingly the Criminal Revision is dismissed.
Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

mrp

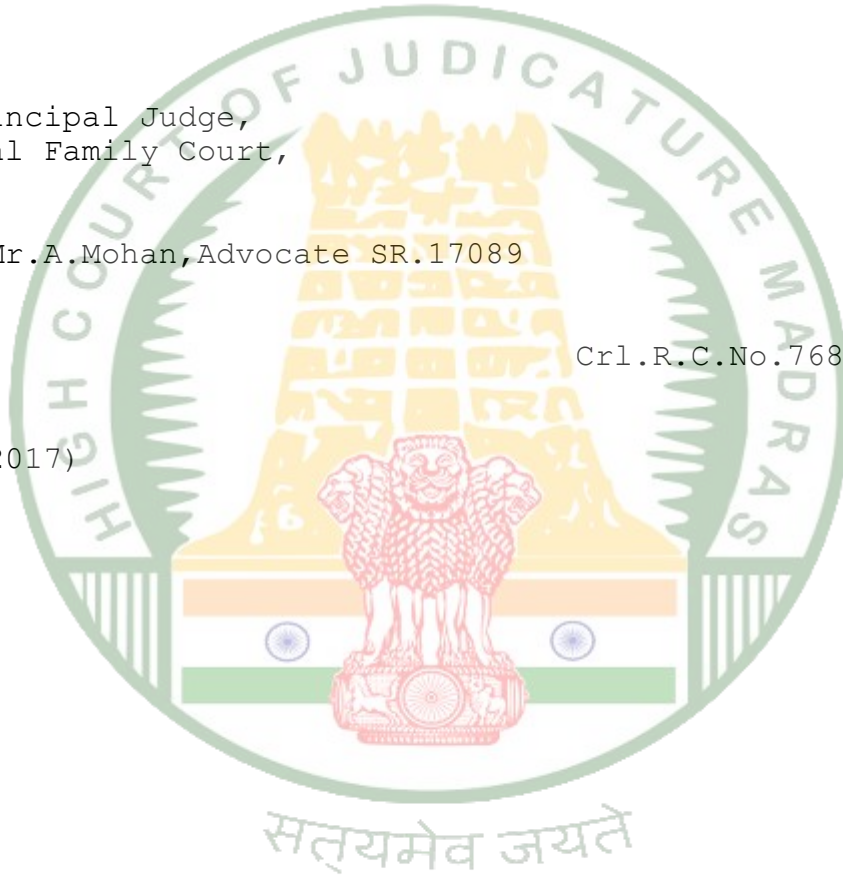
To

1.The Principal Judge,
Principal Family Court,
Chennai.

+ 2CC to Mr.A.Mohan,Advocate SR.17089

Cr1.R.C.No.768 of 2014

LRS (CO)
CB(06-04-2017)



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