

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.304 of 2014
& M.P.No.1 of 2014

Ravi kumar

.. Petitioner

Vs.

Lakshmipriya

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Decretal Order dated 04.12.2013 made in I.A.No.57 of 2011 in H.M.O.P.No.207 of 2010 on the file of the Court of the Subordinate Judge, namakkal.

For Petitioner : Mr.M.V.Krishnan

For Respondent : M/s.Zeeneth Begum

ORDER

This Civil Revision Petition has been filed against the Fair and Decretal Order dated 04.12.2013 made in I.A.No.57 of 2011 in H.M.O.P.No.207 of 2010 on the file of the Court of the Subordinate Judge, namakkal.

2. The petitioner/husband filed H.M.O.P.No.207 of 2010 on the file of

the Principal Subordinate Court, Namakkal, against the respondent/wife for divorce. The respondent filed counter statement on 09.06.2011 and is contesting the H.M.O.P. The respondent filed I.A.No.57 of 2011, claiming for a sum of Rs.5,000/- per month as interim maintenance and Rs.20,000/- towards litigation expenses. According to the respondent, the petitioner is working in "Sakthi Masala" and he is earning Rs.12,000/- per month. The petitioner is also owning a house worth more than Rs.15,00,000/- and is getting rental income from the same. The petitioner is also having a sum of Rs.3,00,000/- cash in hand and he is getting interest of Rs.5,000/- per month. Totally, the petitioner is earning not less than Rs.25,000/- per month.

3. The petitioner filed counter affidavit and denied all the allegations made by the respondent. He also submitted that he was working in the said "Sakthi Masala" at the time of marriage and after three months of marriage, he left "Sakthi Masala". He is not owning any house and the house mentioned by the respondent belongs to his grand mother and there are 15 legal heirs to his grand mother having share in the said property. The petitioner denied having a sum of Rs.3,00,000/- as cash in hand and getting interest from that and also stated that he is not having any income. The marriage itself is null and void and the marriage is not consummated.

4. Before the learned Judge, the respondent examined herself as PW1

and marked 4 documents as Exs.P1 to P4. The petitioner examined himself as RW1 and one Chandran, Head Master of School was examined as RW2 and marked 6 documents as Exs.R1 to R6. The learned Judge, considering the averments in the affidavit, counter affidavit, pleadings, oral and documentary evidence, directed the petitioner to pay a sum of Rs.5,000/- per month towards interim maintenance and a sum of Rs.15,000/- towards litigation expenses.

5. Against the said order 04.12.2013 made in I.A.No.57 of 2011 in H.M.O.P.No.207 of 2010, the petitioner has filed the present Civil Revision Petition.

6. Heard the learned counsel appearing for the petitioner and respondents and perused the materials available on record.

7. From the materials available on record, it is seen that both the petitioner and respondent have not filed any documents with regard to the income of the petitioner. The documents filed by the respondent relates to marriage invitation, horoscope of respondent and xerox copy of the Family card. The petitioner filed documents to prove the age of the respondent at the time of marriage. The petitioner admitted that he was working in "Sakthi

Masala” and left job after three months of marriage. The petitioner has not produced any documents to show that he left the job and he is no longer an employee of the “Sakthi Masala”. It is the duty of the petitioner as husband to maintain the respondent. The respondent failed to prove the income which the petitioner is receiving from the house property as well as the interest on Rs.3,00,000/- and also the petitioner is still working in “Sakthi Masala”. Considering all the materials on record, I am of the view that the order of the learned Subordinate Judge, Namakkal is liable to be modified and is modified as follows:

“The petitioner is directed to pay a sum of Rs.3,500/- as interim maintenance instead of Rs.5,000/- and Rs.10,000/- towards litigation expenses instead of Rs.15,000/-.”

8. With the above modification, this Civil Revision Petition is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No
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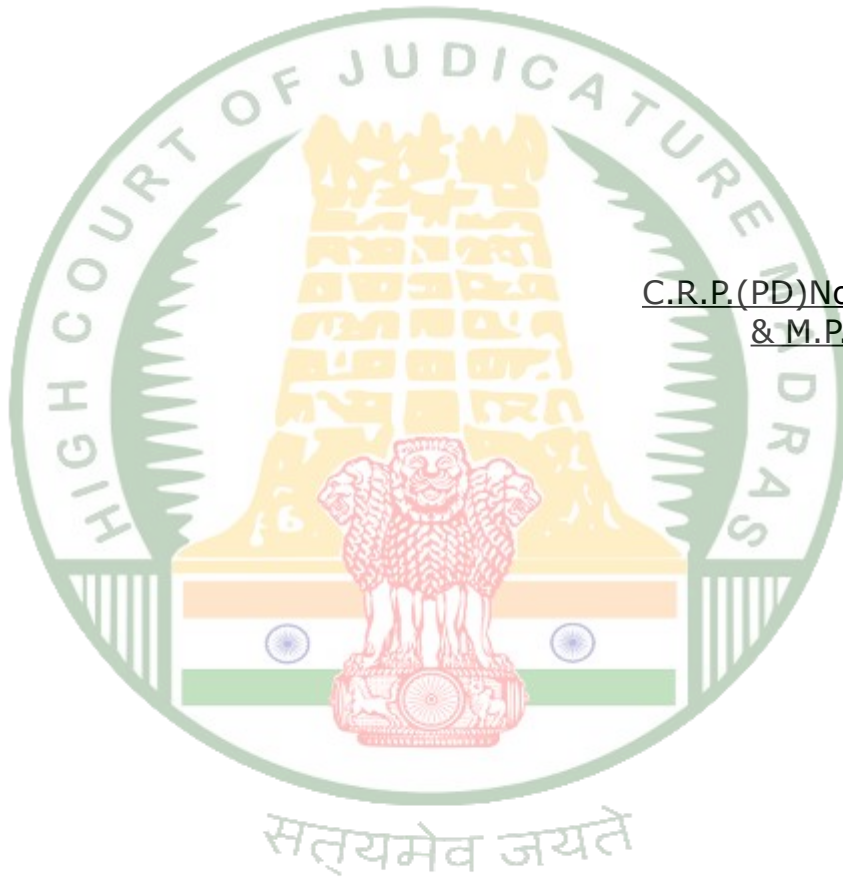
The Subordinate Judge,
Namakkal.



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V.M.VELUMANI, J.

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