

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.874 and 550 of 2011
and
Crl.M.P.No.8792 of 2016 and M.P.No.1 of 2011

S.Nagindiren

... Petitioner
in Crl.R.C.No.874 of 2011
... Respondent in
in

Crl.R.C.No.550 of 2011

Vs

N.Manjula

... Respondent
in Crl.R.C.No.874 of

2011

... Petitioner
in Crl.R.C.No.550 of

2011

Crl.R.C.No.874 of 2011:

This Criminal revision is filed under Section 397 & 401 of Cr.P.C., to set aside the order passed by the District Munsif-cum-Judicial Magistrate at Uthukkottai in Crl.M.P.No.1900/2009 in M.C.No.4 of 2009 dated 21.05.2010.

Crl.R.C.No.550 of 2011:

This Criminal revision is filed under Section 397 & 401 of Cr.P.C., to set aside the order dated 21.05.2010 passed in the maintenance petition filed by the above petitioner in CMP.No.1900 of 2009 in M.C.No.4 of 2009 on the file of District Munsif cum Judicial Magistrate at Uthukkottai and enhance the maintenance amount of Rs.3,000/- to Rs.6,000/- from the date of petition.

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For Petitioner in Crl. R.C. 550 of 2011
and Respondent in Crl.R.C.No.874 of 2011 : Mr.R.Rajasekaran

For Respondent in Crl.R.C. 550 of 2011
and Petitioner in Crl.R.C.No.874 of 2011 : Mr.M.Murugesan

O R D E R

A petition in C.M.P.No.1900 of 2009 in M.C.No.4 of 2009 has been filed by the wife under section 125 Cr.P.C. seeking monthly maintenance of Rs.6000/- before the District Munsif-cum-Judicial Magistrate Court, Uthukottai. The Trial Court awarded a sum of Rs.3,000/- as a monthly maintenance to the petitioner-wife. Challenging the same, the husband filed this present Revision in Crl.R.C.No.874 of 2011 and the wife filed Crl.R.C.No.550 of 2011 seeking enhancement of maintenance.

2. Heard Mr.R.Rajasekaran, learned counsel appearing on behalf of the petitioner and respondent in Crl.R.C.No.874 of 2011 and Mr.M.Murugesan, learned counsel appearing on behalf of the respondent and petitioner in Crl.R.C.No.550 of 2011.

3. The learned counsel appearing on behalf of the petitioner in Crl.R.C.No.874 of 2011 would submit that the respondent/wife is living in adultery and the petitioner filed a petition for seeking divorce in HMOP.No.35 of 2011 on the file of Sub-Court, Thiruvallur on the ground of adultery. The Trial Court granted divorce holding that the respondent is living in adultery. Challenging the same, the respondent filed an appeal in CMA.No.11 and 12 of 2015 on the file of the Principal District Judge, Tiruvallur and the appeal filed by the respondent/wife was also dismissed. In the above circumstances, since the respondent is living in adultery, she is not entitled for any maintenance.

4. Per Contra, the learned counsel for the respondent in Crl.R.C.No.874 of 2011 submitted that the respondent is taking steps to file a Civil Miscellaneous Petition against the order of the Appellant Court. Since the order of the Civil Court not attain finality, husband cannot deny maintenance to the respondent/wife.

5. I have considered the rival submissions made by the learned counsels on either side.

6. The only contention raised by the petitioner-husband is that the respondent-wife is living in adultery. According to him, the Civil Court has granted a decree for divorce on that ground of adultery. In the circumstances, it is always open to the petitioner/husband to file a petition under Section 127 (2) Cr.P.C. to seek cancellation of the order in view of the decision of the Civil Court.

7. With the above observation, the Criminal Revisions are dismissed. Consequently, connected Miscellaneous Petitions are also closed.

-s/d-
Assistant Registrar (CCC)

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Sub-Assistant Registrar

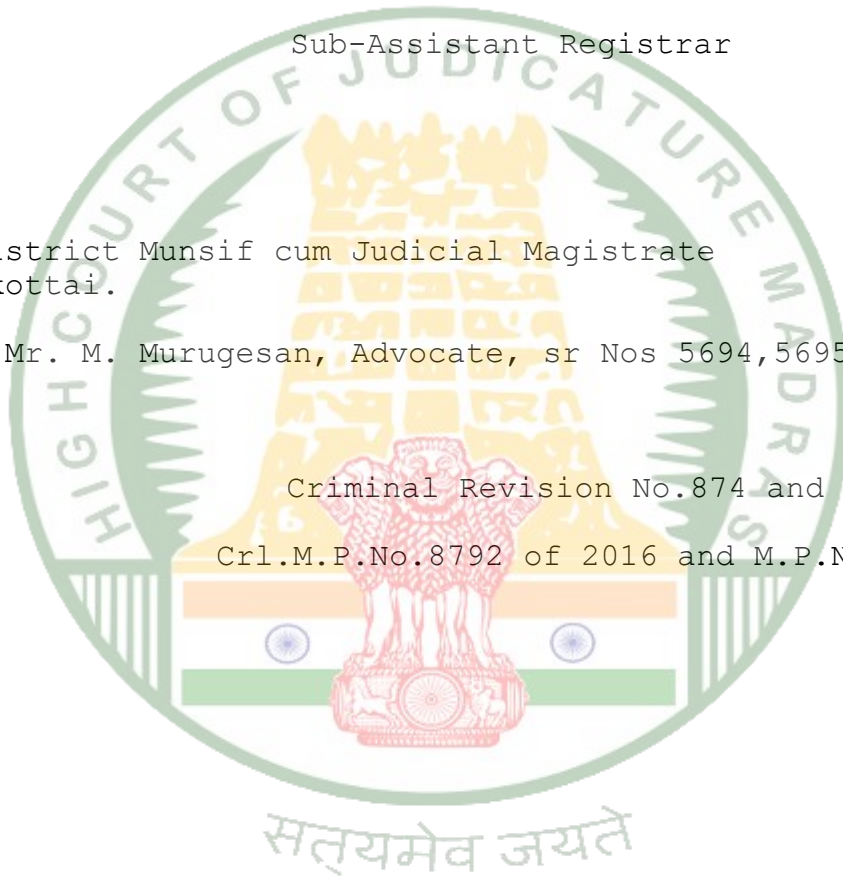
To

1. The District Munsif cum Judicial Magistrate
Uthukkottai.

+2 Ccs to Mr. M. Murugesan, Advocate, sr Nos 5694, 5695

Criminal Revision No.874 and 550 of 2011
and
Crl.M.P.No.8792 of 2016 and M.P.No.1 of 2011

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