

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

CrI.R.C.No.587 of 2010

and

M.P.No.1 of 2010

N.Bhuvanenthiran
S/o/Nanjappa Gounder

.. Petitioner

-Vs-

Smt.R.Mageswari
W/o.N.Bhuvanenthiran

.. Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C.
against the order of learned Family Court Judge, Coimbatore,
passed in M.C.No.171 of 2006 on 18.06.2009.

For Petitioner : Mr.S.Saravanan

For Respondent : No appearance

ORDER

This revision arises against the order of learned Judge,
Family Court, Coimbatore, passed in M.C.No.171 of 2006 on
18.06.2009, whereunder the petitioner/husband was directed to
pay maintenance of Rs.1,250/- to the respondent/wife.

2. Heard learned counsel for petitioner. There is no representation for respondent.

3. Learned Counsel for petitioner submits that the respondent is not entitled to maintenance as she had lived apart from petitioner over a period of 14 long years and a decree of dissolution of marriage has been passed by Family Court, Coimbatore in H.M.O.P.No.502 of 2009 on the ground that respondent/wife had deserted the petitioner.

4. Section 125(4) and (5) of Cr.P.C., read as follows:-

(4) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her, husband, or if they are living separately by mutual consent

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order."

5. Sub clause 2 of Section 127 of Cr.P.C., relates to alteration in allowances, which reads as follows:-

“(2) Where it appears to the Magistrate that, in consequence of any decision of a competent civil Court, any order made under section 125 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.”

6. In these circumstances, the Criminal Revision Case shall stand disposed of, by granting liberty to the petitioner to work out the remedy before the Court below. Connected miscellaneous petition is closed.

29.08.2017

Index:yes/no
Internet:yes/no
kmi

To

The Family Court Judge,
Coimbatore.

WEB COPY

C.T. SELVAM, J
kmi



Crl.R.C.No.587 of 2010

WEB COPY

29.08.2017