

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2017

Coram

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C.No.1328 of 2016
and
Crl.M.P.No.11917 of 2016

Rangasamy

... Petitioner

Vs.

Lingammal

... Respondent

Prayer: Criminal Revision Petition filed under Section 397 read with 401 of the Code of Criminal Procedure to set aside the order dated 15.09.2016 made in F.C.M.C.No.21 of 2016 on the file of the Family Court, Dharmapuri.

For Petitioner : Mr. V.Sakkarapani

For Respondent : Mr.G.R.Deepak,
Legal Aid counsel

ORDER

Challenging the order, granting maintenance, the present Criminal Revision Case has been filed.

2. The petitioner is the husband of the respondent. The marriage between them was solemnized in the year 1962 and they lived together till 1993. According to the respondent, in the year 1993, the petitioner married her own sister Krishnaveni as his second wife. Thereafter, he harassed the respondent and he did not take care. In the above circumstances, the respondent was forced to leave the matrimonial home and living with her parents. Since the respondent was not able not maintain herself, she filed a petition under Section 125 of Cr.P.C. seeking maintenance at the rate of Rs.10,000/- per month. The above application was contested by the petitioner, admitting the marriage, but according to the petitioner, since they have no issue for long time, only on the advise of the respondent, he got married her own sister. It is only the

respondent harassing the petitioner and she was leading a wayward life. The petitioner now having children through his second marriage and only on pension, he is maintaining the family, and he is not in a position to give maintenance to the respondent. Considering all the facts and circumstances, the court below allowed the application filed by the respondent, directing the petitioner herein to pay a sum of Rs.10,000/- per month to the respondent. Challenging the above order, the present Revision has been filed by the petitioner.

3. Even though notice served on the respondent and her name is also printed in the cause list, none appeared for her. Hence this court appointed Mr.G.R.Deepak as Legal Aid Counsel to represent the respondent.

4. Heard Mr.V.Sakkarapani, learned counsel for the petitioner and Mr.G.R.Deepak (legal aid counsel), learned for the respondent. I have gone through the records.

5. It is an admitted fact that the respondent is the legally wedded wife of the petitioner. It is also further admitted fact that the respondent is now living separately and she is not in a position to maintain herself. In the above circumstances, the petitioner being the husband of the respondent, has a legal obligation to maintain her. So far as the quantum of maintenance is concerned, it is admitted by the petitioner that he is a pensioner and he is receiving pension at Rs.15,000/- per month. Apart from that, it could be seen that he is also owning two houses, which are let out and he is receiving rents, and the petitioner is also owning agricultural lands and getting income from it.

6. From the material available on record, it is clear that the petitioner has sufficient means to maintain the respondent. In the above circumstances, considering the fact that the petitioner is getting pension more than Rs.15,000/- and also receiving rents and having some agricultural income, I am of the considered view that the petitioner's monthly income will be more than Rs.20,000/-. It is also admitted by the respondent that he got married her own sister and also having a son and a daughter and hence, petitioner has to maintain his family also. In the above circumstances, the petitioner is directed to pay a sum of Rs.7,000/- as monthly maintenance to the respondent, instead of Rs.10,000/- as ordered by the trial court.

7. In the result, this Criminal Revision Case is partly allowed and the order passed by the learned Judge, Family Court, Dharmapuri dated 15.09.2016 in F.C.M.C.No.21 of 2016 is modified, by directing the petitioner to pay a sum of Rs.7,000/-

(Rupees Seven thousand) per month to the respondent as maintenance from the date of filing this Criminal Revision Case and the past arrears should be paid at the rate of Rs.10,000/- as directed by the trial court.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mst

To

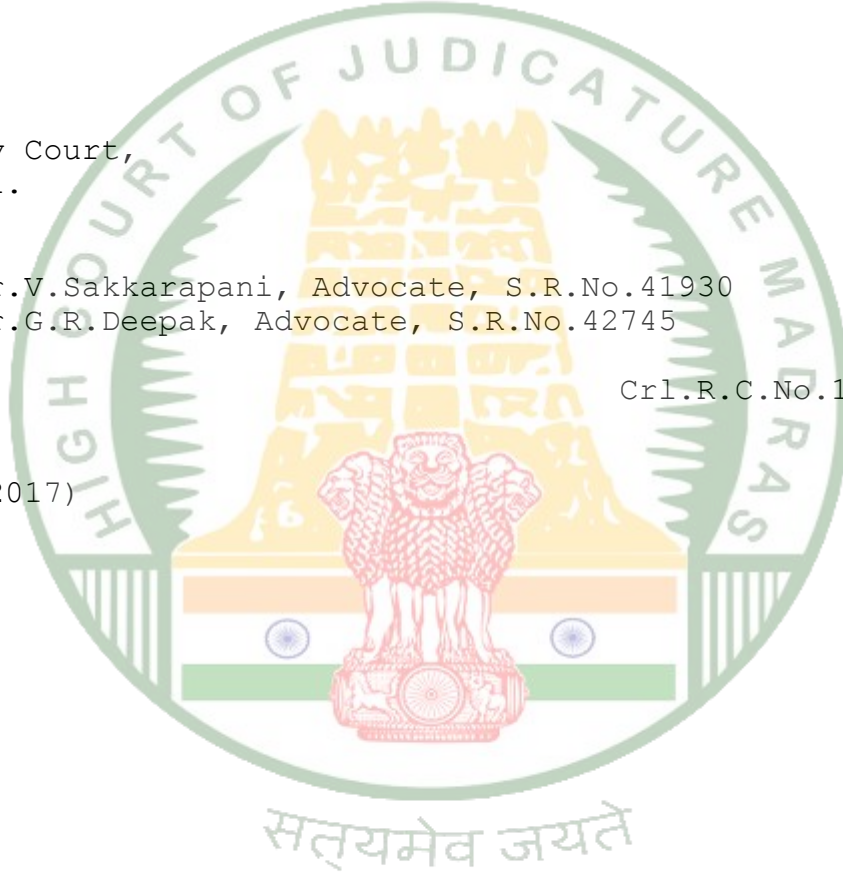
The Family Court,
Dharmapuri.

+1cc to Mr.V.Sakkarapani, Advocate, S.R.No.41930

+1cc to Mr.G.R.Deepak, Advocate, S.R.No.42745

Crl.R.C.No.1328 of 2016

NRI (CO)
CA(06/07/2017)



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