

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2017

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.R.C.No.272 of 2016

1.K.Aravind
2.M.Kaliyan
3.Tmt.K.Devasagayam

... Revision Petitioners/
Appellant/Respondent

Vs.

Tmt.Padmini

... Respondent/Respondent/
Petitioner

Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure Code to set aside the order passed by the II Additional District & Sessions Judge, Tindivanam passed in Criminal Appeal No.27 of 2014 dated 12.01.2016 in confirming the order of the Judicial Magistrate Court No.1, Tindivanam in M.C.No.6 of 2013, dated 03.07.2014.

For Petitioners : Mr.M.Arumugam

For Respondent : Mr.G.Mohanakrishnan

O R D E R

The petitioners herein are the respondents in M.C.No.6 of 2013 on the file of Judicial Magistrate No.I, Tindivanam. The respondent herein was the wife of the first petitioner. Earlier, she filed a petition under Section 12 of the Domestic Violence Act and sought for various reliefs. The Trial Court, by order dated 03.07.2014, allowed the application and directed the first petitioner herein to pay a sum of Rs.10,000/- per month towards maintenance and also directed the petitioners herein to pay a sum of Rs.60,000/- towards mental agony to the respondent herein. Challenging the above said order, the petitioners herein have filed an appeal in Crl.A.No.27 of 2014 on the file II Additional District and Sessions Court, Tindivanam. The Lower Appellate Court, by order dated 12.01.2016 dismissed the appeal by confirming the order of the trial Court. Now, challenging the above said order, the present revision has been filed.

2. Learned counsel appearing for the petitioners would contend that the respondent is having live in relationship with one John and they were living as husband and wife for nearly five years which was also admitted by the

respondent. In order to prove the same, a compact disc containing conversations between the first petitioner's mother and respondent and another compact disc containing conversation between the respondent and the above said John had also been produced. But, the Court below without considering those aspects, has rejected the petition filed by the petitioners. Since the respondent is living in adultery, she is not entitled to maintenance.

3. Per contra, learned counsel for the respondent would submit that the courts below after considering the voice recorded in the Compact Disc rejected the petitioners contention. Moreover, the first petitioner is a Doctor by profession and was having sufficient means, the respondent being the wife is entitled to get maintenance from the first petitioner.

4. I have considered the rival submissions advanced on either side and perused the materials available on record.

5. The first contention put forth by the learned counsel for the petitioners is that the respondent is living in adultery, hence, she is not entitled to any maintenance. Even though some materials were produced before the Trial Court to prove the same in the form of compact disc regarding, the alleged conversations about the alleged illegal intimacy of the respondent. The courts below considered the same and rejected that contention. Since the scope of revision is so limited, this Court cannot re-appreciate the evidence in a revision petition filed under Section 397 of Cr.P.C.. Now, it is also stated that the first petitioner had already filed a petition seeking to declare the marriage as null and void on the ground of adultery and the same is also pending. Since the both the courts below have concurrently held against the petitioners, I find no reason to interfere with the order of the courts below as there is no illegality or infirmity in the order. सत्यमेव जयते

6. In the result, finding no merit, this Criminal Revision Petition is dismissed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

smi

To

1. The II Additional District & Sessions Judge,
<https://hcservices.ecourts.gov.in/hcservices/>
Tindivanam.

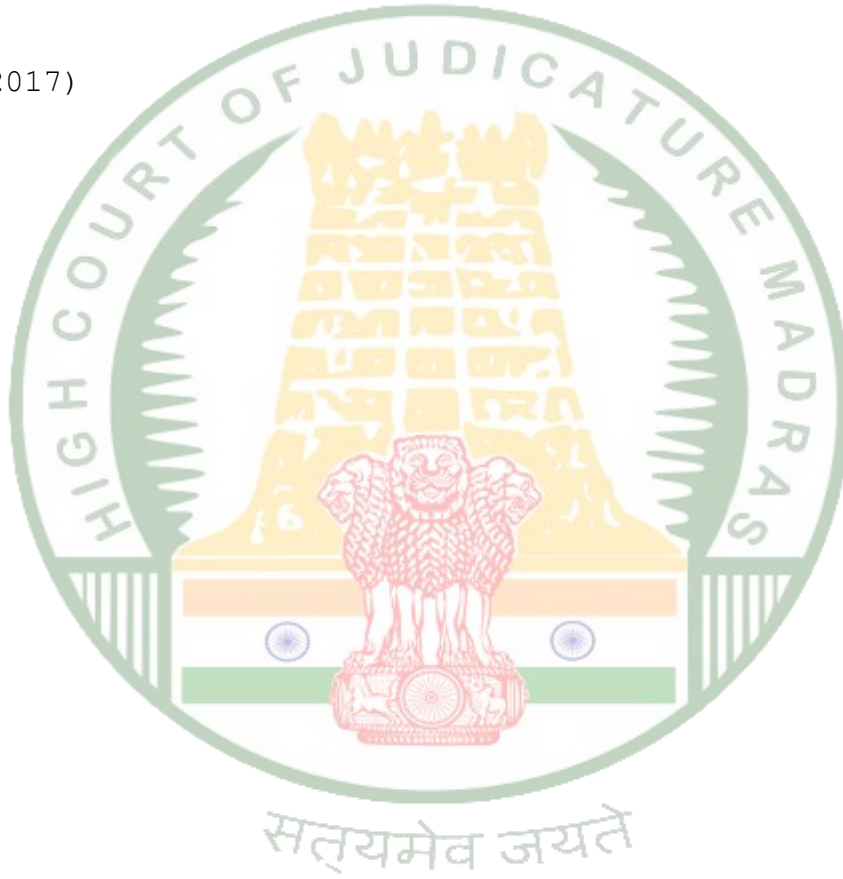
2. The Judicial Magistrate Court No.1,
Tindivanam.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.G.Mohanakrishnan, Advocate, S.R.No.17392
+1cc to Mr.M.Arumugam, Advocate, S.R.No.17130

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AD(CO)
CA(07/04/2017)



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