

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11..12..2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Cr1.R.C.No.417 of 2012

&

M.P.No.1 of 2012

M.Deivasigamani

... Petitioner

-Versus-

1.P.Mahalakshmi @ Sujatha

2.Minor Kamalesh

... Respondents

Revision Case filed under Sections 397 r/w 401 of Cr.P.C. praying to set aside the order dated 03.12.2011 made in M.C.No.524 of 2005 by the learned I Additional Sessions Judge, Family Court, Chennai.

For Petitioner : Mr.G.K.Sekar

For Respondents : Mr.K.Elango

ORDER

Challenging the order of the learned I Additional Sessions Judge, Chennai dated 03.12.2011 in M.C.No.524 of 2005 granting interim maintenance at Rs.1,500/- per month to the wife and son of the petitioner namely, 1st respondent and the 2nd respondent herein, the husband has come up with the present revision.

2. The 1st respondent is the wife of the petitioner. She was given in marriage to the petitioner on 17.02.2000 and through their wedlock, they were blessed with a male child, the 2nd respondent, on 18.04.2002. According to the 1st respondent, after some time after the birth of the 2nd respondent, the petitioner had started harassing her demanding dowry and driven her out of the matrimonial home. Since then she has been living separately at her parental home. According to the 1st respondent, she has no means to maintain herself and her son, the 2nd respondent. Hence, she has filed the maintenance case in M.C.No.524 of 2005 against her husband under Section 125 of Cr.P.C. seeking maintenance before the learned I Additional Sessions Judge Chennai. The revision petitioner resisted the claim inter alia contending that he is not employed any where and is not getting any rental income as alleged by the 1st respondent; the 1st respondent has sufficient means to maintain

herself and the 2nd respondent is being taken care of by her sister; and parents of the 1st respondent are well off and they will take care of the 1st respondent also. After considering the rival submissions and evidence let in by both parties, the court below directed the revision petitioner to pay maintenance at the rate of Rs.1,500/- per month to the respondents. It is this order now under challenge in this revision petition.

3. The learned counsel for the revision petitioner advanced his arguments assailing the findings whereby the court below directed the revision petitioner to pay maintenance allowance.

4. Per contra, the learned counsel for the respondents advanced his arguments to justify the impugned order. He further submitted that till date the revision petitioner has not paid any amount to the respondents as maintenance.

5. The short question that arises for consideration in this revision petition is, whether there is any illegality or impropriety in the findings whereby the court below directed the revision petitioner to pay a sum of Rs.1,500/- per month to the respondents. The relationship between the revision petitioner and the respondents are admitted. It is also not in dispute that the respondents are living separately. Whether the petitioner deserted her or the petitioner abandoned herself from the matrimonial cannot be gone into while granting maintenance allowance under Section 125 of Cr.P.C. The revision petitioner being the husband of the 1st respondent and father of the 2nd respondent respectively is under a legal obligation to maintain his wife and child. The 1st respondent claimed that she has no means to maintain herself and her son. The learned Judge after having assessed the financial status of the revision petitioner including the rental income, granted a sum of Rs.1500/- as maintenance. The learned counsel for the revision petitioner has not argued any valid point to hold the impugned order as illegal or it suffers from any impropriety. Thus, I do not find any reason to interfere with the findings whereby the court below directed the revision petitioner to pay maintenance to the respondents and the revision petition deserves dismissal.

6. At this juncture, the learned counsel for the respondents submitted that applications filed by the respondents in CrI.M.P.No.442 of 2012 and 750 of 2017 under Section 125(3) of Cr.P.C. are pending and the same have been posted for hearing on 30.01.2018. In the above circumstances, the learned I Additional Principal Judge, Family Court, Chennai, is directed to expedite the enquiry of those applications and pass final orders on merits and in accordance with law within one month from the date of receipt of a copy of this order.

7. In the result, the order of the learned I Additional Principal Judge, Family Court, Chennai dated 03.12.2011 made in M.C.No.524 of 2005 stands confirmed and the criminal revision is, accordingly, dismissed with the above directions.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kmk

TO:

The First Additional Principal Judge,
First Additional Family Court,
Chennai.

Copy to:

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.G.K.Sekar, Advocate sr.no.88458

+1cc to Mr.K.Elango, Advocate sr.no.87863

Crl.R.C.No.417 of 2012

nr 19/06/2018

सत्यमेव जयते

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