IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2017

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.No.982 of 2016

Samundeeswari
W/o.Santhakumar … Petitioner/Petitioner

Vs.

Santhakumar
S/o.G.Ramasundaram … Respondent/Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. against the order of learned Judge, Family Court, Dharmapuri, passed in M.C.No.7 of 2015 on 11.04.2016.

For Petitioner : Mr.K.Venkateswaran
For Respondent : Mr.W.M.Abdul Majeed
for Ms.G.Sumithra

*****

O R D E R

This revision arises against the order of learned Judge, Family Court, Dharmapuri, passed in M.C.No.7 of 2015 on 11.04.2016.

2. The facts attending the present case are that the respondent has moved H.M.O.P.No.69 of 2014 on the file of Family Court, Dharmapuri, seeking dissolution of marriage. Petitioner moved H.M.O.P.No.84 of 2014 seeking restitution of conjugal rights. Court below, under common order dated 20.04.2015, while dismissing the petition seeking dissolution of marriage, has allowed the petition seeking restitution of conjugal rights. Challenging both findings, respondent/husband moved C.M.A.Nos.1195 and 1196 of 2015 which are pending consideration before this Court. Petitioner/wife has moved F.C.M.C.No.7 of 2015 on the file of Family Court, Dharmapuri, seeking maintenance. Court below, under the impugned order, dismissed such petition. Hence, this revision.

3. Heard learned counsel for petitioner and learned counsel for respondent.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

4. Learned counsel for petitioner submits that Court below has denied petitioner maintenance on the reasoning that the petitioner voluntarily had abandoned her job as also her child. Learned counsel submits that petitioner is solely reliant on her father who works at a hotel and earns a meagre sum of Rs.150/- per day. Petitioner is in dire need of maintenance from the husband.

5. Learned counsel for respondent submits that it was the petitioner, who abandoned the family home and the son of the couple, now aged 11 years, now in the care and custody of respondent. Respondent has examined the Head Master of the School in which the petitioner was serving, as DW-2. Such witness has spoken to petitioner abandoning employment on her own accord.

6. On consideration of rival submissions and on perusal of the records, this Court finds that DW-2 had, in cross, admitted to not having been the Head Master of the School when the petitioner was serving therein. Learned counsel for respondent submitted that DW-2 has issued a certificate informing that the petitioner had left the School on her own accord and such document has been marked as Ex.R1. The same will not carry forward the case of the respondent once DW-2 has admitted to not having been at the School when the petitioner was working therein. The fact of her having left service on her own accord is to be spoken to by persons having direct knowledge thereof or through the records of the School. It is brought to notice that as a teacher at the Government School, the respondent earns about Rs.30,000/- per month. However, it is not disputed that the child of the couple is under the care of the respondent. In the attendant circumstances, this Court is inclined to allow this revision.

The Criminal Revision Case is allowed. Respondent is directed to pay maintenance in a sum of Rs.4,000/- (Rupees Four Thousand only) per month from the date of petition before the Court below. Respondent also is directed to pay the monthly maintenance of Rs.4,000/- on or before 5th of every month.

WEB COPY

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

https://hcservices.ecourts.gov.in/hcservices/

To

The Judge,
Family Court,
Dharmapuri.

+1 CC to Mr. K. Venkateswaran, Advocate sr 9544
+1 CC to M/s. G. Sumitra, Advocate sr 9557

Crl.R.C.No.982 of 2016

GJ(CO)
sp/21/2

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/