

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CrI.R.C No.202 of 2013
and M.P.No.1 of 2013

Manivannan ... Petitioner / Respondent

Vs

Kodeeswari ... Respondent/Petitioner

Prayer:- Criminal Revision filed under Section 397 r/w 401 of Cr.P.C., to set aside the order dated 28.11.2012 passed by the III Addl. Dt. and Sessions Judge, Coimbatore in C.R.P.No.42/2012 in M.C.No. 9/2011 on the file of the Judicial Magistrate No.2, Pollachi by judgment dated 15.05.2012.

For Petitioner : M/s.B.Vasudevan

For Respondent : Mr.C.Veeraraghavan

JUDGEMENT

Challenging the order granting maintenance, the present revision has been filed by the petitioner/husband.

2. The petitioner is the husband of the respondent. Earlier, the respondent/wife filed a petition under Section 125 Cr.P.C. seeking maintenance in M.C.No.9 of 2017 on the file of the Judicial Magistrate No.II, Pollachi.. The trial Court by an order dated 15.05.2012 dismissed the petition. Challenging the same, the respondent/wife filed a revision in C.R.P.No.42 of 2012 before the III Additional District and Sessions Court, Coimbatore. The Revisional Court by an order dated 28.11.2012 allowed the revision and granted maintenance at the rate of Rs.10,000/- per month. Now, challenging the same, the petitioner/husband is before this Court with this revision.

3. The case of the respondent/wife in brief is as follows:

The marriage between the petitioner and respondent took place on 12.09.2010 at Pollachi. At the time of marriage, sufficient dowry has been given and the petitioner/husband has been employed as a Software Engineer at Bangalore. Even though the respondent is also a Post Graduate in Engineering, she was under the hope that the petitioner/husband will take her with him to Bangalore and get her a job there. But the petitioner/husband left her in the matrimonial home and he was living alone at Bangalore and the parents of the petitioner harassed the respondent in the matrimonial home. After some time, the petitioner took the respondent to Bangalore and there, he harassed the respondent demanding the dowry, and driven the respondent to her parental home. Since the respondent was residing in her parental home, she was not in a position to maintain herself. Hence, she filed a petition under Section 125 Cr.P.C seeking maintenance at the rate of 60,000/- per month. The above petition has been contested by the petitioner/husband denying all those allegations and the petitioner has stated that he has not harassed the respondent, but she had, on her own, left the matrimonial home and neglected to live with him. Apart from that the respondent was also working at Chennai and earning a sum of Rs.50,000/- per month as salary and she is capable of maintaining herself and there is no necessity to pay maintenance to her.

4. The trial Court considering the fact that there was a proposal for divorce and at that time, and a compromise has been entered into between the parties and the respondent received the entire sreedhana properties, and considering the exchange of notice between the parties, came to a conclusion that only due to some misunderstanding between the parties, they were living separately and holding that the respondent is also a Post Graduate in Engineering, she is capable of earning on her own and thus, dismissed the petition.

5. Challenging the same the respondent/wife filed a revision in C.R.P.No.42 of 2012 on the file of the III Additional District and Sessions Court, Coimbatore. The Revisional Court allowed the revision stating that now divorce proceeding is pending between the parties and there is no proof to show that the respondent/wife is employed and capable of maintaining herself, and it was also established that the petitioner is working as a Software Engineer and getting a monthly salary of Rs.70,000/- per month, and thereby allowed the revision and directed the petitioner to pay a sum of Rs. 10,000/- as monthly maintenance to the respondent. Now challenging the above order, the present revision has been filed.

6. I have heard Mr. B.Vasudevan, learned counsel appearing for the petitioner, and Mr.C.Veeraraghavan, learned counsel appearing for the respondent.

7. The learned Counsel appearing for the petitioner would submit that the respondent/wife, who is a Post Graduate in Engineering, is now employed in a Software Company at Chennai and she is also getting a salary around Rs.78,000/- per month and he has also produced some documents in support of his contentions. He further submits that since the respondent/wife is also employed and getting sufficient amount as salary, she does not require any maintenance.

8. Per contra, the learned counsel appearing for the respondent has disputed the above fact, and submitted that the respondent is not employed and depending upon her parents and there is no material to show that the respondent is employed.

9. I have heard the rival submissions made on both sides and also perused the materials available on record carefully.

10. Even though the petitioner has stated that the respondent is an employee and getting monthly salary, there is no material available to prove the same. Now it cannot be decided based on the document produced by the petitioner at the revision stage and if the petitioners have any such material, it is open to the petition to approach the trial Court seeking modification of the order.

11. So far as the award of maintenance is concerned, the Revisional Court held that there is no proof to show that the respondent/wife is an employee and admittedly divorce proceeding is also pending between the parties and the petitioner is also getting a salary of more than Rs.70,000/- per month, considering the same the Revisional Court ordered a sum of Rs.10,000/-per month as maintenance. The respondent is the legally wedded wife of the petitioner, and he has a legal obligation to maintain her. Considering all those facts, the Revisional Court ordered award of Rs.10,000/- per month as maintenance.

12. In the above facts and circumstances, I find no illegality or irregularity in the order passed by the Revisional Court. Hence, this revision fails and the revision is liable to be dismissed.

13. In the result, the Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

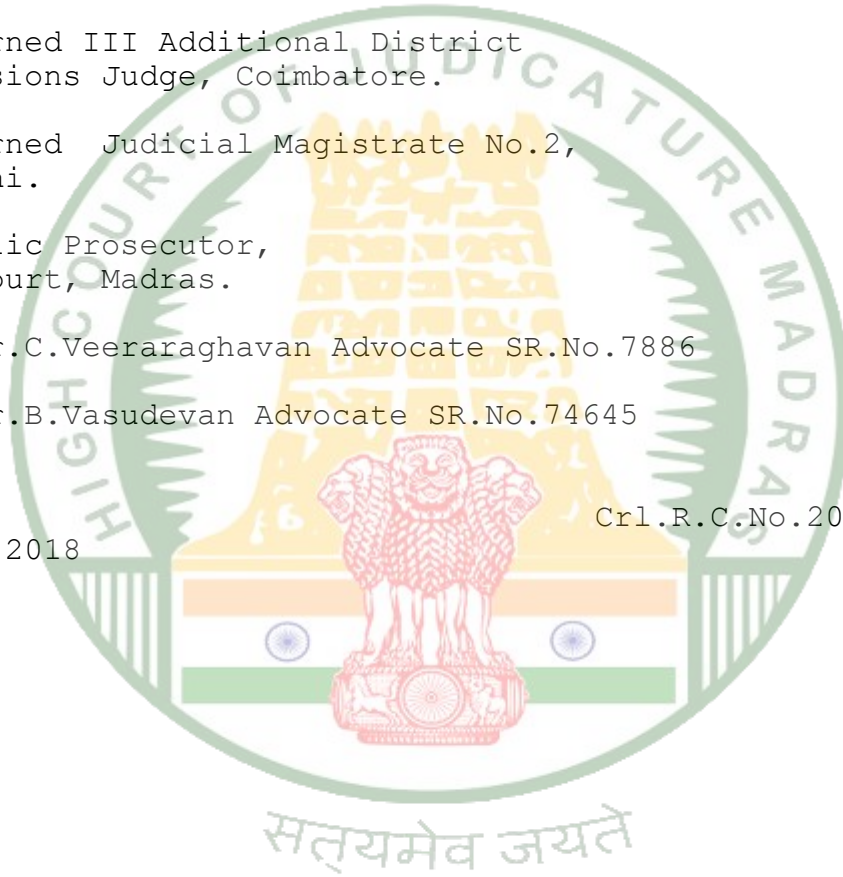
- 1.The learned III Additional District and Sessions Judge, Coimbatore.
- 2.The learned Judicial Magistrate No.2, Pollachi.
- 3.The Public Prosecutor, High Court, Madras.

+1cc to Mr.C.Veeraraghavan Advocate SR.No.7886

+1cc to Mr.B.Vasudevan Advocate SR.No.74645

SDR 16.05.2018

Crl.R.C.No.202 of 2013



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