



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP. (MD) .No.15273 of 2017 and
CRL.M.P. (MD) No.10160 of 2017

Prabhu

... Petitioner/Respondent

Vs.

1. Kalyani

2. Minor.P.Gejan

(Rep by its 1st Respondent/
Natural Guardian)

... Respondents/Petitioners

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for records in Criminal Revision Case No.69 of 2006, dated 10.10.2013 on the file of the learned III Additional District Judge, Thiruchirappalli, and to set aside the same.

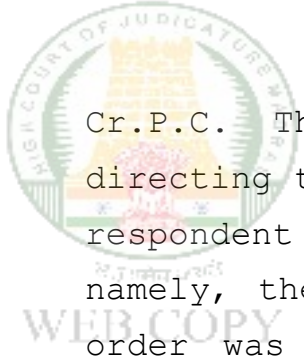
For Petitioner : Mr.M.Karunanithi

ORDER

This Criminal Original petition is filed to set aside the order passed by the learned III Additional District Judge, Thiruchirappalli, in Criminal Revision Case No.69 of 2006, dated 10.10.2013 modifying the order passed by the learned Chief Judicial Magistrate, Thiruchirappalli in M.C.No.233 of 2003, dated 20.03.2006.

2. Heard the learned counsel appearing for the petitioner.

3. The petitioner herein is the respondent in M.C.No.233 of 2003 on the file of the learned Chief Judicial Magistrate, Thiruchirappalli. The first respondent herein who is the wife of the petitioner filed the Maintenance petition under Section 125 of

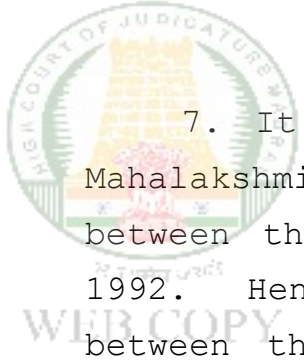


Cr.P.C. The said petition was allowed by an order dated 20.03.2006, directing the petitioner to pay a sum of Rs.500/- p.m., to the first respondent and a sum of Rs.250/- p.m., to the second respondent, namely, the son of the petitioner and the first respondent. This order was a subject matter of challenge before the learned III Additional District Judge, Tiruchirapalli, in Cr1.R.C.No.69 of 2006. The order of the learned Chief Judicial Magistrate, Thiruchirapalli, was modified by the learned III Additional District Judge, Thiruchirapalli, directing the petitioner to pay a sum of Rs.1,500/- p.m., to the first respondent and a sum of Rs.1,000/- to the second respondent taking into consideration the prevailing cost of living. Aggrieved by the order passed by the learned III Additional District Judge, Thiruchirapalli, the petitioner is before this Court with this petition.

4. The only contention that was raised by the petitioner is with regard to the status of the first respondent as wife of the petitioner. It is contended that the first respondent was already married and that the marriage that was stated to have been dissolved by customary practice, is not proved in the manner known to Law.

5. The second submission of the learned counsel for the petitioner is that the petitioner had married another lady in the year 1998 and that the said marriage is subsisting. It is on account of the earlier marriage between the first respondent with another person and the marriage between the petitioner and another lady, it is stated that the petition for Maintenance is not sustainable, as there was no matrimonial relationship between the petitioner and the first respondent as husband and wife.

6. The learned Chief Judicial Magistrate has considered this aspect elaborately and found that the documents produced by the petitioner to establish that there was some form of marriage between the first respondent with another person and that the same was subsisting were not proved in the manner known to law.



7. It is also admitted that the petitioner has married one Mahalakshmi on 28.08.1998 whereas, it is stated that the marriage between the petitioner and the first respondent was in the year 1992. Hence, on the ground that there was a subsequent marriage between the petitioner and another lady in the year 1998, the petitioner cannot dispute the legal status of the first respondent as the wife of the petitioner.

8. Since both Courts have concurrently held that the marriage between the petitioner and the first respondent is valid and subsisting, this Court is not inclined to go into the factual contentions. As the submissions of the learned counsel for the petitioner in this case is not supported by any other material evidences, this Court is not able to see any error in the appreciation of evidence or irregularity in the order passed by the Courts below. This petition deserves dismissal and hence, the Criminal Original petition is dismissed. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The III Additional District Judge, Tiruchirappalli.
2. The Chief Judicial Magistrate, Thiruchirapalli.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.M.KARUNANITHI, Advocate SR.No.86448.

Cr1.O.P. (MD) .No.15273 of 2017
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