



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WEB COPY

Crl.R.C. (MD) .No.328 of 2017

and

Crl.M.P. (MD) Nos.6546 and 6547 of 2017

R.Saravana Kumar : Petitioner/Respondent

Vs.

E.Sankara Gomathi : Respondent/Petitioner

PRAYER: Criminal Revision Case filed under Section 397(1) and 401 of the Code of Criminal Procedure, to call for the records and set aside the order dated 02.03.2017 in M.C.No.2 of 2017 on the file of the Family Court, Tirunelveli, Tirunelveli District.

For Petitioner : Mr.J.Devasenar
For Respondent : Mr.P.Pethu Rajesh

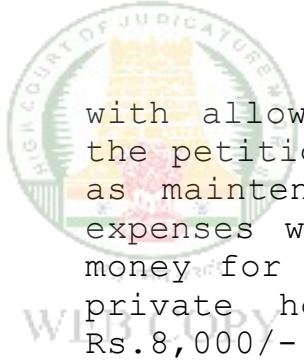
O R D E R

Challenging the order in M.C.No.2 of 2017 dated 02.03.2017, on the file of the Family Court, Tirunelveli, Tirunelveli District, the Present Criminal Revision has been filed by the petitioner.

2. The respondent herein is the wife of the petitioner. Earlier she has filed a petition under Section 125 Cr.P.C seeking maintenance from the petitioner at the rate of Rs.10,000/- for family maintenance and also Rs.5,000/- for medical expenses per month. The Court below allowed the application and directed the petitioner to pay a sum of Rs.7500/- for monthly maintenance and also sum of Rs.2500/- towards medical expenses, totally a sum of Rs.10,000/- from the date of filing of the petition by the petitioner. Now, challenging the same, the present Revision has been filed.

3. Heard Mr.J.Devasenar, learned counsel for the petitioner and Mr.P.Pethu Rajesh, learned counsel for the respondent.

4. The learned counsel appearing for the petitioner would submit that the quantum fixed by the Court below is highly excessive. The petitioner is only working as a medical representative and he is getting only Rs.8000/- as salary along



with allowances of Rs.4,000/-. Without considering the means of the petitioner, the Court below ordered to pay a sum of Rs.7,500/- as maintenance and also to pay a sum of Rs.2500/- as medical expenses without giving any finding that the respondent required money for medical expenses. Since the petitioner is working in a private hospital, Tirunelveli and getting monthly salary of Rs.8,000/- that the petitioner has no sufficient means to pay the maintenance amount as ordered by the Court below to the respondent.

5. Per contra, the learned counsel for the respondent would submit that the respondent is the petitioner's legally wedded wife and the petitioner deserted her and he has also filed a petition in H.M.O.P. 736 of 2016 on the ground of cruelty, which is pending. So far as the quantum of maintenance is concerned, taking into consideration of the facts, the Court below ordered the petitioner to pay a sum of Rs.10,000/- (Rupees ten thousand only) to the respondent, only after considering entire materials, as monthly total maintenance. The petitioner has sufficient means to pay the maintenance amount to the respondent.

6. I have considered the rival submissions. It is an admitted fact that the respondent is the wife of the petitioner. Hence, he has legal obligation to pay maintenance. It is not a case of the petitioner that the respondent / wife has deserted him and the petition filed by the petitioner for divorce is also only on the ground of cruelty, the same is also pending. In the above circumstances, the petitioner has to maintain the respondent. The quantum fixed by the Court below is concerned, the petitioner contended that he is getting salary of Rs.12,000/- in total. It is an admitted fact that he is employed as a medical representative, and he has sufficient means to pay maintenance to the respondent. The contention of the respondent is that the petitioner is employed in one private hospital and he produced the salary certificate issued by the private hospital. But the Court below, in order to verify the veracity of said certificate has also examined the Manager of the hospital, but he has stated that he is not in a position to confirm the salary certificate whether the certificate relates to the respondent or not.

7. Considering the facts and circumstances of the case, the quantum ordered by the Court below for a total sum of Rs.10,000/- is highly excessive. Hence, the amount ordered by the Court below is modified. The petitioner is directed to pay monthly maintenance of a sum of Rs.7500/- per month payable on or before 10th of every English calendar month to the respondent, from the date of filing of this revision petition by the petitioner, (i.e., from 05.01.2017) and directed to pay arrears of maintenance within a period of eight weeks from the date of receipt of a copy of this order.



3

8. In the result, the revision petition is partly allowed. Consequently, connected M.P.s are closed.

Sd/-

Assistant Registrar (CO)

/True copy/

WEB COPY

Sub Assistant Registrar

To
The Family Court,
Tirunelveli,
Tirunelveli District.

+1cc to Mr.P.PETHU RAJESH,Advocate,SR. 72735

+1cc to Mr.J.DEVANESAN,Advocate,SR. 73035

Cr1.R.C. (MD) .No.328 of 2017
16.08.2017

SM/PSD
KK/SVMMS/SAR 1/03.10.2017/ 3P- 4C/