

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.R.C.No.1026 of 2018

D.Govindaraj

... Petitioner

Vs.

K.Lakshmi

.... Respondent

Prayer:

Criminal Revision Case filed under Sections 397 r/w 401 of the Criminal Procedure Code seeking to set aside the decree and judgment made in M.C.No.350 of 2016 dated 25.06.2018 on the file of the VI Additional Family Court, Chennai and call for the records and pray to dismiss the M.C.No.350 of 2016 on the file of the VI Additional Family Court, Chennai.

For Petitioner : Mr.J.Christopher

O R D E R

This criminal revision has been filed seeking to set aside the decree and judgment made in M.C.No.350 of 2016 dated 25.06.2018 on the file of the VI Additional Family Court, Chennai and call for the records and pray to dismiss the M.C.No.350 of 2016 on the file of the VI Additional Family Court, Chennai.

2.The case of the petitioner is that the marriage between the petitioner and the respondent was solemnized on 15.02.2013 and after the marriage, the respondent refused to consummate the marriage and even on few occasions, with great persuasion he had physical relationship with the respondent and that the respondent was not interested in the family affairs. Thereafter, the petitioner came to know that the respondent is suffering from mental illness and she only deserted the petitioner. However, suppressing all these facts, the respondent filed a petition under Section 125 of the Code of Criminal Procedure, claiming Rs.25,000/- p.m. as maintenance before the VI Additional Family Court, Chennai. However, the VI Additional Family Court Judge, Chennai, allowed the case in M.C.No.350 of 2016, dated 25.06.2018 and directed the petitioner herein to pay a sum of Rs.10,000/- p.m. from the date of petition. Aggrieved

against the order, the present revision petition is preferred.

3.The learned counsel for the respondent would submit that after the marriage, the petitioner and the respondent started their life in the petitioner's house. The petitioner ill-treated the respondent and demanded further money for his business. On the compulsion of the petitioner, the pregnancy of the respondent was aborted in July 2013 and thereafter, the respondent was thrown out from the matrimonial home on 17.01.2015. The petitioner has not paid any amount to her day-to-day maintenance. In the absence of any income, the respondent suffered a lot and unable to maintain herself, for which, she filed a petition under Section 125 of the Code of Criminal Procedure on the ground that the petitioner is running a Provision Store under the name and style of "Senthil Provision Stores" and earning a sum of Rs.1 lakh p.m.

4.The learned counsel for the petitioner would submit that the allegations levelled against the petitioner as if he is running a provision store under the name and style "Senthil Provision Store" is absolutely false and that the petitioner is an Auto Driver. He is earning very meagre amount and that he is maintaining himself and his mother and he is not in a position to pay such huge amount i.e. Rs.10,000/- p.m. to the respondent and he requests this Court to interfere with the order of the lower Court.

5.The undisputed facts are that the marriage was solemnised on 15.02.2013 between the petitioner and the respondent. Subsequently, their life was ran into rough weather and thereafter, the respondent filed a petition under Section 125 of Cr.P.C., claiming a sum of Rs.25,000/- per month as maintenance before the lower Court. In M.C.No.350 of 2016, on the side of the respondent/wife, two witnesses were examined viz., PW1 and PW2 and Exs.P1 to P3 were marked. On the other hand, the petitioner was examined as RW1 and no documents were marked.

6.Considering the submissions and on perusal of the decision of the Hon'ble Apex Court reported in Shamina Farooqui Vs. Shahid Khan reported (2015) 5 SCC 705 and the decision of this Court in the case of Mani vs. Jaykumari reported in 1988 Cr.L.J.3708 (3715), the Family Court, [V-Additional Principal Judge], Chennai, arrived at a conclusion and awarded a sum of Rs.10,000/- in favour of the respondent.

7.This Court is of the view that in the absence of any material to establish the valid reason for refusal of interim maintenance to the respondent and unless the petitioner satisfies this Court as to why he is refusing to pay the interim maintenance, this Court cannot interfere with the order of the lower Court in a mechanical manner.

8.Further, considering the present cost of living, the quantum of interim maintenance fixed by the lower Court, in the opinion of this Court, is not onerous or inappropriate. It is just and reasonable. Hence, I do not find any error in the order passed by the lower Court.

9.In view of all the above, I am not inclined to interfere with the order passed by the lower Court. Accordingly, this criminal revision is dismissed.

Kal

Sd/-

Assistant Registrar (CS-VIII)

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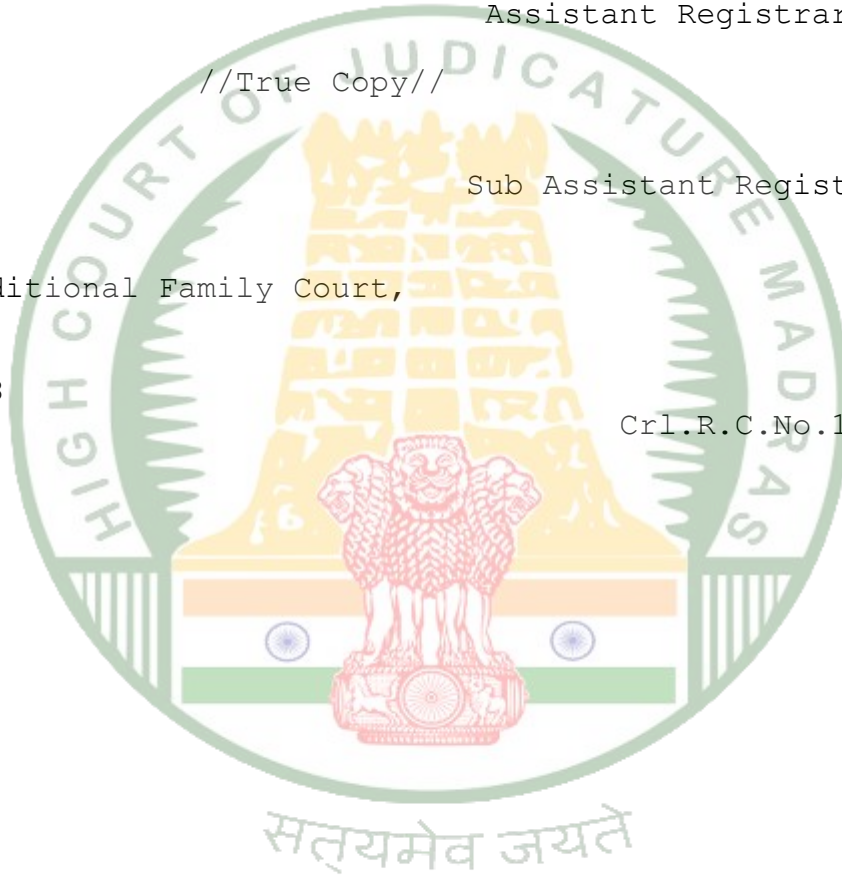
Sub Assistant Registrar

To

The VI Additional Family Court,
Chennai.

KR/9/11/18

Crl.R.C.No.1026 of 2018



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