

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL RC No.813 of 2018

K.Ramesh

... Petitioner

Vs.

1.Malathi

2.Minor. Archana

(Represented by her mother and next friend
natural guardian Malathi)

.... Respondents

Criminal Revision petition has been filed under Sections 397 and 401 of the Code of Criminal Procedure, to set aside the order dated in M.C.No.15 of 2011 dated 01.09.2017 on the file of the Judicial Magistrate-II, Tirupattur, Vellore District.

For Petitioners : Mr.R.Govindasamy

For Respondents : Mr.L.Seetharaman
for M/s.T.M.Hari Haran

O R D E R

This revision petition has been filed by the petitioner against the order dated 01.09.2017 in M.C.No15 of 2011 on the file of the Judicial Magistrate-II, Tirupattur, Vellore District directing the petitioner to pay sum of Rs.4,000/- each per month towards maintenance to the respondents from the date of petition and to continue to pay maintenance amount on or before 15 every month.

2.It is stated that that the marriage between the petitioner and the 1st respondent was solemnized on 22.01.2010 and they were blessed with one female child (2nd respondent herein). Subsequently, due to the matrimonial disputes, the petitioner herein filed H.M.O.P.No.86 of 2011 on the file of the Sub Court, Tirupattur seeking for declaration declaring the marriage of the petitioner with the first respondent held on 22.01.2011 as null and void and the said petition is pending enquiry. While pending H.M.O.P, the first respondent filed M.C.No.15 of 2011 for maintenance and the learned Judicial Magistrate-II, Tirupattur, Vellore District, after elaborate discussion, has

directed the petitioner herein to pay the maintenance of Rs.4,000/ each to the respondents. Aggrieved over the same, the present revision has been filed.

3.The learned counsel for the petitioner would submit that prior to the marriage of the petitioner with the first respondent, there was marriage in between one Gajendran S/o.Perumal and the first respondent on 08.02.2009 conducted as per Hindu Rights in Murugan Temple at Avaramuguppam Village, Vaniyambadi Taluk and that after the above said marriage, they lived at Bangalore for quite some time. Thereafter, based on the complaint of the partents of the first respondent, Police intervene into the issue and separated the said Kajendran and the first respondent. But, suppressing the earlier marriage, the first respondent married the petitioner on 22.01.2010. Immediately after coming to know about the suppression of the earlier marriage of the first respondent, the petitioner filed H.M.O.P.No.86 of 2011 and the same is pending before the Sub Court, Tirupattur. While pending the matter, the lower Court awarded a maintenance under Section 125(1) of Cr.P.C. Hence, he prayed for allowing the revision petition.

4.The learned counsel for the first respondent would submit that though the matrimonial issue was pending, duty is cost upon the petitioner to give maintenance to his wife and child; hence, the decision taken by the Sub Court, Tirupattur directing the petitioner to give maintenance cannot be said to be illegal. Thus, the learned counsel for the respondents sought for dismissal of the revision petition.

5.Considering the facts and circumstances of the case this Court of the view that though the H.M.O.P is pending before the Sub Court, Tirupattur filed by the first respondent, duty is cost upon the petitioner to give maintenance the wife and child. It is seen that the respondents claimed Rs.5,000/- each towards maintenance, but the learned Judicial Magistrate awarded only Rs.4,000/- each, which cannot be said to be incorrect. Under such circumstances, this court does not find any merit in this revision petition.

Accordingly, the Criminal Revision Petition is dismissed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

gmd/vsg1

To

1.The Judicial Magistrate-II,
Tirupattur,
Vellore District.

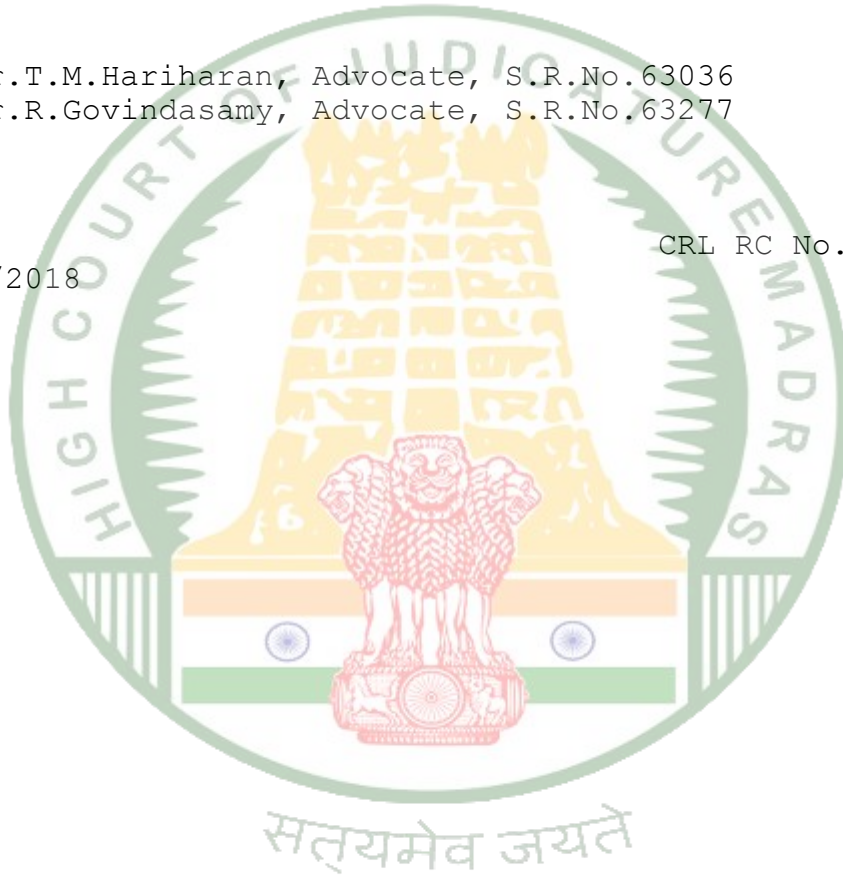
2.The Subordinate Court,
Tirupattur

3.The Public Prosecutor,
Madras High Court.

+1cc to Mr.T.M.Hariharan, Advocate, S.R.No.63036
+1cc to Mr.R.Govindasamy, Advocate, S.R.No.63277

rrs 23/10/2018

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