

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Cr1.R.C.No.589 of 2012
and
M.P.No.1 of 2012

Sadasivam ... Petitioner

Versus

1.M.Vijayalakshmi

2.Minor Kadhirraj

... Respondents

Criminal Revision Case is filed under Section 397 read with 401 of the Criminal Procedure Code, to against the order dated 14.03.2012 made in M.C.No.33 of 2011 on the file of the learned Chief Judicial Magistrate, Namakkal and to set aside the order of maintenance passed against him.

For Petitioner : Mr.K.V.Sridharan

For Respondents : M/s.N.Premalatha
for Mr.R.Nalliyappan

O R D E R

This Criminal Revision Petition is filed by the petitioner against the order dated 14.03.2012 made in M.C.No.33 of 2011 passed by the learned Chief Judicial Magistrate, Namakkal.

2.The first respondent is the wife of the petitioner herein and the second respondent is the minor son of the petitioner and the first respondent.

3.

3. The learned counsel appearing for the revision petitioner has stated that out of the wedlock between the petitioner and the first respondent the second respondent was born and admittedly, he is the legal heir of the petitioner and the first respondent. It appears from the records that the first respondent / wife has preferred a case in M.C.No.33 of 2011 claiming maintenance and after contest, the learned Chief Judicial Magistrate, Namakkal has awarded a sum of Rs.1,000/-

for the wife and Rs.1,500/- for the minor son and the same is challenged by the husband / revision petitioner herein, on the ground that only after filing the divorce petition by the husband, the above said maintenance petition has been initiated by the wife as a counter blast and further, the petitioner herein has stated that his wife has voluntarily withdrawn from the matrimonial home and hence, the wife is not entitled to maintenance and the aforesaid award passed by the learned Chief Judicial Magistrate, Namakkal in M.C.No.33 of 2011 has to be set aside.

4. Heard both sides and perusing the available materials placed on records.

5. After going through the documents filed before the learned Chief Judicial Magistrate, Namakkal and admitted position of the matrimonial relationship between the parties and also taking note of the status of the husband that he is an agent working for Life Insurance Corporation of India as per Ex.R3, Form 16 issued by the L.I.C branch, Salem Division the learned Chief Judicial Magistrate, Namakkal has correctly awarded the maintenance for a sum of Rs.1,000/- towards the wife and Rs.1,500/- for the minor son were also cannot be stated to be an excessive.

6. Furthermore, based on the evidence, it is also seen that due to the circumstances which was prevailing in a matrimonial home she is deserted the matrimonial home and I am of the considered view that the respondents herein are entitled for the maintenance award amount imposed by the learned Chief Judicial Magistrate, Namakkal. In view of this matter, I do not find any irregularity or illegality in passing the maintenance award by the lower Court and the same is hereby confirmed.

7. The learned counsel for the respondent submits that at the time of the granting interim order, a conditional was imposed to pay Rs.1,250/- every month out of Rs.2,500/- per month awarded by the Lower Court till the disposal of the revision. In view of the dismissal of the Criminal Revision Case, the petitioner is directed to pay the balance arrears amount at the rate of Rs.1,500/- per month towards maintenance to the respondents herein and it shall be deposited by the petitioner / husband to the credit of M.C. No. 3 of 2011 on the file of learned Chief Judicial Magistrate, Namakkal, within a period of eight weeks from the date of receipt of a copy of this order and on such deposit the wife / first respondent is permitted to withdraw the same.

8. With these observations and directions, this Criminal Revision Petition is dismissed and consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

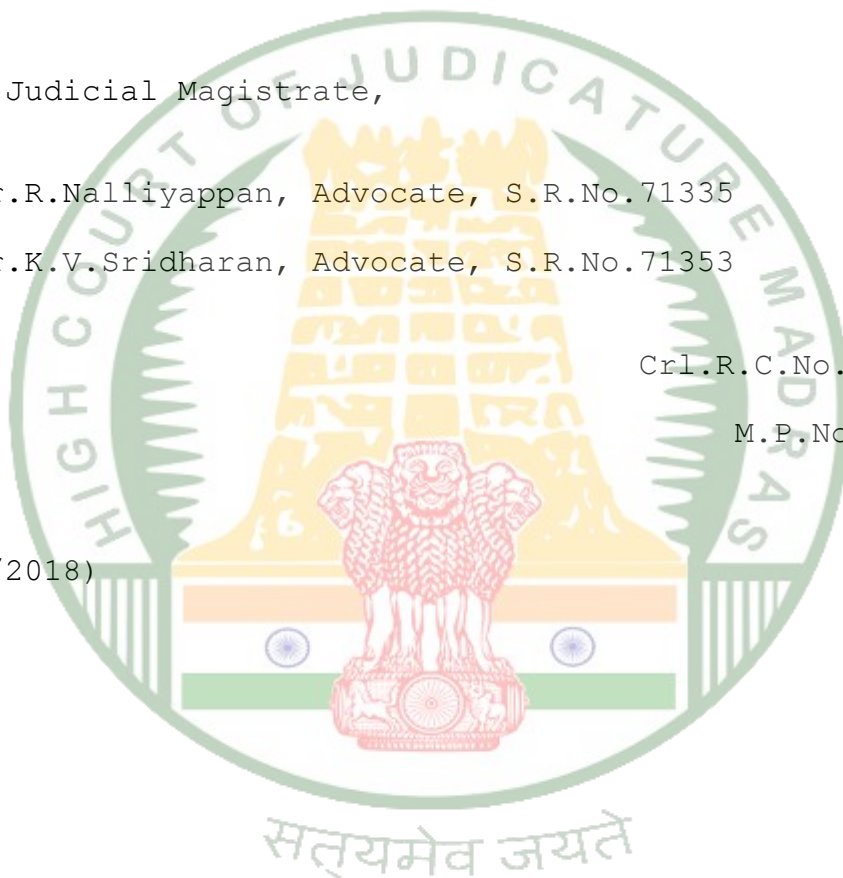
The Chief Judicial Magistrate,
Namakkal.

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.71335

+1cc to Mr.K.V.Sridharan, Advocate, S.R.No.71353

Crl.R.C.No.589 of 2012
and
M.P.No. 1 of 2012

RSV(CO)
GSP(02/11/2018)



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