

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
27.11.2018

Coram  
The Hon'ble Mr. Justice V.PARTHIBAN

Crl.R.C.Nos.423 and 1228 of 2018  
and  
Crl.M.P.Nos.5222 and 9815 of 2018

R.Muralikrishnan .. Petitioner in  
Crl.R.C.No.423 of 2018  
Respondent in  
Crl.R.C.No.1228 of 2018

Vs

A.Ramya .. Respondent in  
Crl.R.C.No.423 of 2018  
Petitioner in  
Crl.R.C.No.1228 of 2018

Criminal Revision Cases preferred against the order dated  
17.02.2018 passed in M.C.No.48 of 2010, by the II Additional  
Family Court, Chennai.

For Petitioner in Crl.R.C.No.423 of 2018  
and for Respondent in Crl.R.C.No.1228 of 2018:

Mr.K.M.Subramani

For Petitioner in Crl.R.C.No.1228 of 2018  
and for the Respondent in Crl.R.C.No.423 of 2018:

Mr.M.Rajasekhar

COMMON ORDER

These Criminal Revision Petitions are directed against  
the order dated 17.2.2018, passed in M.C.No.48 of 2010, by the  
II Additional Family Court, Chennai.

2.The revision petitioner in Crl.R.C.No.423 of 2018,  
namely, Muralikrishnan, and the revision petitioner in  
Crl.R.C.No.1228 of 2018, namely, Ramya, got married on  
09.03.2008 as per the Hindu Customs and Rites. It is the  
contention of Ramya that there were dowry harassments etc., at  
the matrimonial home, thereby she was not made to live  
peacefully there, which resulted in the rift in the matrimonial

relationship. Accordingly, she filed the application under Section 125 of Cr.P.C. claiming maintenance from her husband-Muralikrishnan.

3.The husband/Muralikrishnan would resist the said claim on the main ground that there was no consummation of the marriage; the wife was not looking after his parents and it was she who is responsible for the separation between the two. It is also the contention of the husband that the wife is having enough source of income; her father is well off; she is capable of earning huge amount, as she is a B.Tech and B.L. graduate and now she is a practicing advocate.

4. Before the lower Court enquiry was conducted. During enquiry, the revision petitioner in Crl.R.C.No.1228 of 2018 examined herself as P.W.1 along with P.W.2 one Vinaypaul and Exs.P1 to P.11 were marked. The husband examined himself as R.W.1 along with one Kamalakannan as R.W.2 and Exs.R1 to R12 were marked.

5.The Court below, after considering the averments made in the maintenance petition, has directed the husband to pay a sum of Rs.20,000/- as monthly maintenance to the wife. As against the said order, the husband filed Crl.R.C.No.423 of 2018, inter alia contending that the amount awarded by the trial Court is exorbitant and the order passed by the trial Court is non est in the eye of law. Likewise, the wife filed Crl.R.C.No.1228 of 2018, seeking enhancement of the amount, raising several grounds.

6.The learned counsel appearing for the husband has contended to the effect that the quantum of monthly maintenance awarded by the trial Court is excessive and the husband is not having sufficient source of income so as to pay the quantum fixed by the trial Court. It is also contended that the wife belongs to a affluent family and her father is owning a Spinning Mill in Rajapalayam, Virudhunagar District and in the said mill, she is also one of the shareholders and the mill is running profitably, as is evident from the statement given by the wife during her cross-examination. It is also contended that the wife is a B.Tech and B.L. graduate and she was employed in so many firms, and now she is a practicing advocate and therefore, she is having sufficient means to maintain herself without depending the husband. The learned counsel also contended that the wife has left the matrimonial home on her own accord and no issues born to the couple out of the wedlock. The husband is drawing a basic salary of Rs.36,023/- per month, working in a private concern, as Senior Software Consultant, and with the said income he cannot pay the huge amount of Rs.20,000/- to the wife, as maintenance. It is also the contention of the learned counsel that claim could be made only by those persons, who is

not able to maintain herself/himself and as such, the wife herein is not entitled to make any such claim against the revision petitioner and therefore, the impugned order is liable to be set aside..

7.Per contra, it is the contention of the learned counsel appearing for the wife that the husband is earning a sum of Rs.2,50,000/- per month as External Title Manager (Technical) in Ariba Technologies Pvt., Limited and the wife is entitled to live on par with the lifestyle of the husband and the monthly maintenance of Rs.20,000/- awarded by the lower Court is a paltry and meager sum. Considering the present day cost of living, the lower Court ought to have awarded Rs.60,000/- per month, which would be reasonable though the claim itself is for Rs.30,000/-. It is also contended that the wife is working as a Junior advocate and has been getting only a sum of Rs.5,000/- per month. It is also submitted that the wife was an erstwhile shareholder of a mill and now everything had been lost and she is in a financial crisis. Therefore, the award passed by the lower Court needs to be enhanced proportionate to the income of the husband is the contention raised by the learned counsel for the wife

8.The point for consideration is as to whether there is any perversity or illegality in the order passed by the Court below.

9.A plain reading of the order of the lower Court, coupled with the records available, would show that the lower Court, after considering the pros and cons of the matter, arrived at the conclusion that the father of the wife is well off and the wife also is capable of earning sufficiently. However, the learned counsel for the wife, drawing the attention of this Court to the various portions of the evidence, would develop his argument to the effect that the wife even though is having educational qualification, nevertheless, she is drawing only a sum of Rs.5000/- as Junior Advocate; on the other hand, as on the date of filing of the M.C., the husband was working in Ariba Technologies Pvt Ltd., and was drawing a sum of Rs.1,50,651/- per month and now he got promotion as External Title Manager (Technical) in the same company and is drawing a sum of Rs.2,50,000/- per month.

10.It is a settled principle of law that a hale and healthy husband is expected to see that he is earning and paying maintenance to his wife. Simply because the wife is having educational qualification, the husband would not be justified in taking a plea that the wife should work and earn her livelihood and that he would not pay any maintenance to his wife.

11. Here admittedly, the husband was working in a reputed concern and is earning a sizable amount. Law enjoins the husband to do reasonable work and earn and pay maintenance to his wife. No doubt, the core question arises as to whether a wife can deliberately refrain from working.

12. It is quite obvious that in this present day cost of living, a lady cannot make both ends meet with a meager amount. Though there are no documents produced to show the exact income of the husband, from the facts and circumstances narrated on both sides, it could be easily discernible that the husband, who is a well qualified person and employed in a reputed concern, can easily get a good salary. Keeping in mind all the factual circumstances of the case, this Court is of the view that awarding marginal increase in maintenance by enhancing the maintenance from Rs.20,000/- to Rs.25,000/-per month would meet the ends of justice.

In fine, the Criminal Revision Petition filed by the husband, viz., Crl.R.C.No.423 of 2018 is dismissed. Criminal Revision Petition filed by the wife, viz., Crl.R.C.No.1228 of 2018 is allowed in part and the order passed in M.C.No.48 of 2010, by the Court below, is modified as follows:

The Revision Petitioner, viz., A.Ramya (Crl.R.C.No.1228 of 2018) is entitled to get Rs.25,000/- (Rupees Twenty Five thousand only) as monthly maintenance. The respondent/husband is directed to pay monthly maintenance, as ordered in this Petition, to the wife on or before 5<sup>th</sup> of every English Calendar month. The respondent is also directed to pay the arrears of maintenance, calculated at Rs.25,000/- (Rupees Twenty Five Thousand only) from 05.02.2010, within a period of four weeks from the date of receipt of copy of this order. On such deposit, the respondent/wife is permitted to withdraw the same.

Connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msk

To

1.The II Additional Family Court,  
Chennai.

2.The Section Officer,  
High Court, Madras.

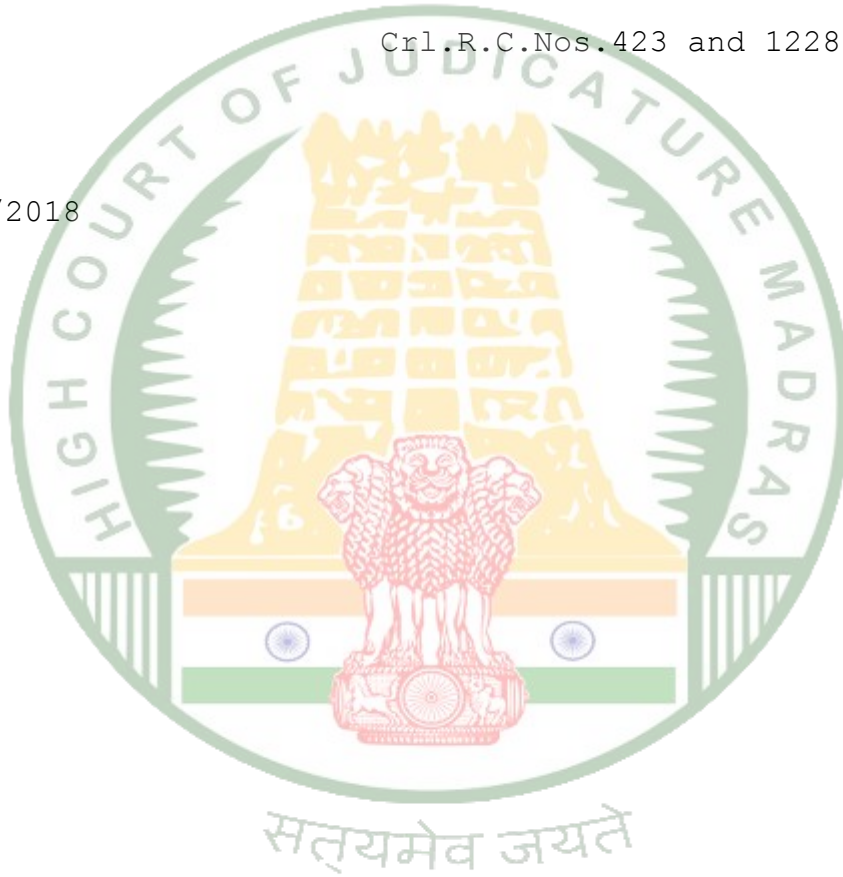
+1cc to Mr.S.Kumar, Advocate, S.R.No.81944

+1cc to M.Raja Sekhar, Advocate, S.R.No.81077

Crl.R.C.Nos.423 and 1228 of 2018

RJI (CO)

rrs 28/12/2018



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