

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2018

CORAM

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Cr1.RC.No.421 of 2013

Manjula

... petitioner

-Vs-

Baskaran

... Respondent

Prayer: Criminal revision is filed under Section 397 and 401 of the Criminal Procedure Code, to set aside the order passed in CRP.No.32 of 2008 dated 15.04.2009 on the file of the Additional District cum Sessions Judge (Fast Track Court No.I), Vellore reversing the judgment passed in MC.No.35 of 2004 dated 31.03.2008 on the file of the Chief Judicial Magistrate, Vellore.

For petitioner : Mr.R.T.Sundari.

For Respondent : Mr.P.Mani. No appearance.

O R D E R

The criminal revision is filed against the order passed in CRP.No.32 of 2008 dated 15.04.2009 on the file of the Additional District cum Sessions Judge (Fast Track Court No.I), Vellore reversing the judgment passed in MC.No.35 of 2004 dated 31.03.2008 on the file of the Chief Judicial Magistrate, Vellore.

2. The revision petitioner is the wife, she filed the maintenance case before the Chief Judicial Magistrate, Vellore seeking maintenance from the respondent/husband. The learned Chief Judicial Magistrate, Vellore after hearing both sides directed the respondent/husband to pay a sum of Rs.600/-p.m. towards maintenance. Aggrieved against the said order, the respondent/husband preferred CRP.No.32 of 2008 on the file of the Additional District and Sessions Judge, Fast Track Court, Vellore, the appellate Court after hearing both sides set aside the order passed by the trial Court. As against the said order, the petitioner filed the present criminal revision before this Court.

3. The learned counsel for the petitioner would submit that the learned Chief Judicial Magistrate was convinced and directed the respondent/husband to pay a sum of Rs.600/-p.m. towards maintenance of the petitioner. The learned Additional District Judge, without assigning any reason reversed the order

by setting aside the order of the trial Court. When the wife was deserted she was not entitled to claim any maintenance, whereas the petitioner has stated reason for deserting her husband, because of the ill-treatment and cruelty made by the husband and after her desertion the respondent/husband got second marriage, this fact has not been duly considered by the learned Additional District Judge.

4. Heard the learned counsel for the petitioner and there is no representation on behalf of the respondent, this Court perused the materials available on record.

5. Admittedly, the revision petitioner is not living with her husband/respondent. The respondent got second marriage. The revision petitioner explains the reasons for deserting her husband, she was sent out from the matrimonial house from the year 1995. The husband filed HMOP.No.16 of 2002 before the Sub Court, Vellore and obtained an exparte order for divorce on 13.01.2003 with an intention to have second marriage. The reason stated by the petitioner for deserting her husband because of the ill-treatment and cruelty suffered from the hands of her husband, this fact has not been rightly considered by the appellate Court. This Court convinced with the reasons stated by the petitioner and the order passed by the learned Chief Judicial Magistrate, Vellore and inclined to set aside the order passed by the learned Additional District and Sessions Judge, Fast Track Court, Vellore.

6. In the result, the criminal revision is allowed by setting aside the order passed by the learned Additional District and Sessions Judge, Fast Track Court, Vellore made in CRP.No.32 of 2008 dated 15.04.2009 and by confirming the order passed by the learned Chief Judicial Magistrate, Vellore made in MC.No.35 of 2004 dated 31.03.2008. The revision petitioner/wife is entitled to claim monthly maintenance of Rs.600/-p.m. from the date of filing the maintenance case to till date. The respondent/husband is directed to pay the regular monthly maintenance to the petitioner/wife on or before 5<sup>th</sup> of every English calendar month.

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Sd/-

Assistant Registrar (ins.cell)

//True Copy//

Sub Assistant Registrar

To

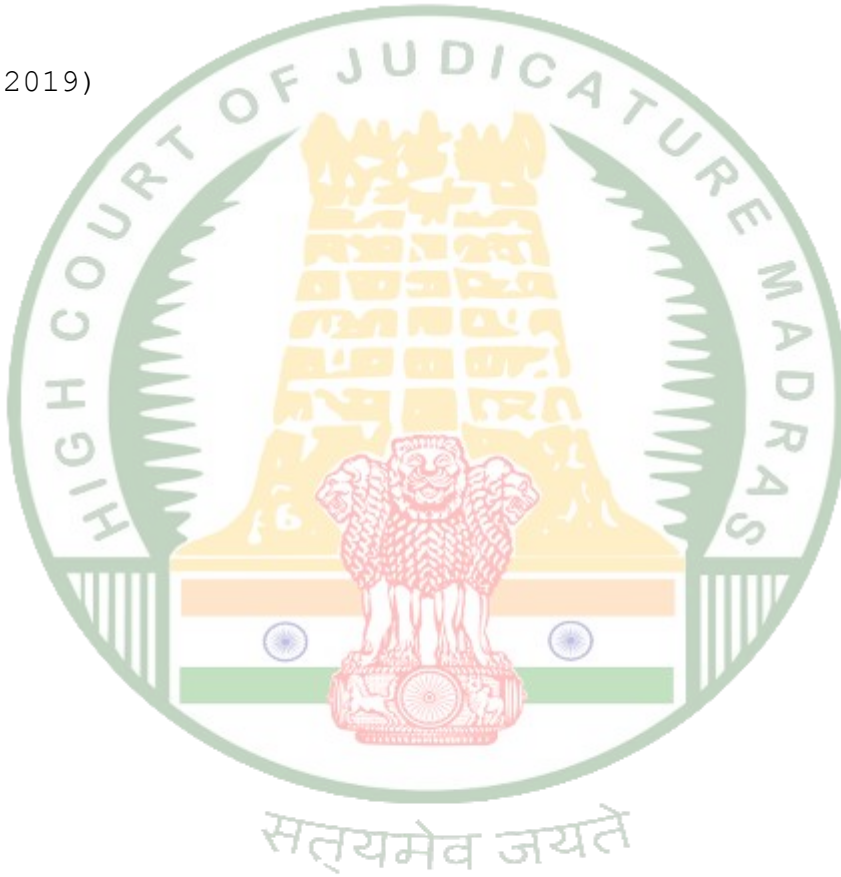
1. The Additional District cum Sessions Judge  
(Fast Track Court No.I), Vellore.

2. The Chief Judicial Magistrate, Vellore.

+1cc to M/s.R.T.Sundari, Advocate, SR. No. 65597

Cr1.RC.No.421 of 2013

GJ (CO)  
RMP (04/07/2019)



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