

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.Nos.23315 and 23669 of 2018
and CRL.M.P.No.13052 of 2018

G. Mohamed Hasheer Ahmed ... Petitioner in both Crl.O.Ps.

Vs

Majeeda Misbah Respondent in both
Crl.O.Ps.

PRAYER in Crl.O.P.No.23315/2018: Criminal Original Petition filed under Section 482 Cr.P.C., praying to set aside the order passed in M.P.No.669/2016 in M.C.No.62/2014 vide order dated 31.05.2018 on the file IV Additional Principal Judge, Family Court, Chennai.

PRAYER in Crl.O.P.No.23669/2018: Criminal Original Petition filed under Section 397 r/w 401 Cr.P.C., praying to call for records to exercise of powers of revision and set aside the order of interim maintenance passed in M.P.No.30/2017 dated 31.05.2018 in M.C.No.62/2014 on the file of IV Additional Principal Judge, Family Court, Chennai.

For Petitioner : M/s.I.M.Agha

COMMON ORDER

The petitioner got married to the respondent and their marriage ran into rough weather, resulting in the spouses getting estranged. The respondent has filed M.C.No.62 of 2014 under Section 125 Cr.P.C against the petitioner and the same is now pending on the file of the IV Additional Principal Judge, Family Court, Chennai.

2.It is the case of the respondent that the petitioner is working in HCL Technologies, Chennai and he is drawing a salary of Rs.80,000/- and therefore, she filed M.P.No.669 of 2016 for a direction to issue summons to HCL Technologies, Chennai to produce the Pay Certificate of the petitioner. The respondent also filed M.P.No.30 of 2017 for an interim maintenance of

Rs.30,000/-, pending disposal of the main case.

3.The Trial Court heard the petitioner and respondent and by a common order dated 31.05.2018, has dismissed M.P.No.669 of 2016, but, however has issued a direction to the petitioner/husband to produce Form 16A, submitted to the Income Tax Department, so as to ascertain the income of the petitioner. Challenging this order, the petitioner has filed Crl.O.P.No.23315 of 2018. In M.P.No.30 of 2017, the Family Court has directed the petitioner/husband to pay interim maintenance of Rs.20,000/- to the respondent/wife, challenging which the petitioner has filed Crl.O.P.No.23669 of 2018.

4.Heard the learned Counsel for the petitioner/ husband who submitted that the petitioner has resigned his job this year and is out of employment and therefore, he cannot make any payment. He also submitted that the allegation of the wife that the petitioner is an impotent is false. The learned Counsel also produced the Form 16A of the Income Tax Returns to show his income details. He contended that there is no provision to award interim maintenance under Section 125 Cr.P.C.

5.This Court gave its anxious consideration to the submissions of the learned counsel for the petitioner/husband.

6.In the opinion of this Court, the Trial Court has got the power to award interim maintenance under Section 125 Cr.P.C and the issue is no more res-integra after the judgment of the Supreme Court in Savitri Vs. Govind Singh Rawat 1985 (4) SCC 337. Therefore, this court does not find any infirmity in the orders passed by the Trial Court warranting interference. It is always open to the petitioner to submit his income details during the trial in M.C.No.62 of 2014 and establish his actual income. It is also open to the petitioner to contend that he has not deserted his wife.

With the above direction, these petitions are closed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vrn/gsa

To

1. The IV Additional Principal Judge,
Family Court, Chennai.

CRL.O.P.Nos.23315 and 23669 of 2018
and CRL.M.P.No.13052 of 2018

PA (CO)
CS/29/10/2018



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