



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.R.C.(MD) No.91 of 2018
and
Cr1.M.P.(MD) No.1165 of 2018

C.Perumal

... Petitioner/Respondent

vs.

1.P.Rajalakshmi
2.P.Vetrivel (Minor)
(Rep. by his mother and natural
Guardian the 1st Respondent)

... Respondents/Petitioners

PRAYER: Criminal revision filed, under Sections 397 r/w 401 Cr.P.C., praying to set aside the Order dated 05.01.2018 in M.C.No.12 of 2015 on the file of District Munsif Court cum Judicial Magistrate, Thirumaiyam, Pudukkottai District.

For Petitioner : Mr.S.Ramakrishnan
For Respondents : Mr.C.Arulvadivel alias Sekar

O R D E R

For the sake of convenience the parties herein are referred to by their name.

2.Rajalakshmi got married to Perumal on 01.02.2014 and they have one son, namely, Vetrivel through the wedlock. Their marital life ran into rough weather, resulting in the couple getting estranged. Rajalakshmi filed M.C.No.12 of 2015 before the District Munsif cum Judicial Magistrate, Thirumaiyam under Section 125 Cr.P.C. against Perumal, claiming maintenance for herself and her minor son. On notice, Perumal entered appearance and contested the case. On behalf of Rajalakshmi, she examined herself as P.W.1 and marked Exs.P.1 to P.8. Perumal examined himself as R.W.1 and marked Exs.R.1 to R.5. After considering the evidence adduced by both sides, the trial Court passed final orders in M.C.No.12 of 2015 on 05.01.2018, directing Perumal to pay Rs.5,000/- each (Rs.10,000/- totally) as monthly maintenance from the date of order and not from the date of petition. Challenging the order of maintenance, Perumal has filed the present Criminal Revision Case.

3.Heard Mr.S.Ramakrishnan, learned counsel for Perumal and

Mr.C.Arulvadivel alias Sekar, learned counsel for Rajalakshmi.

4.From the evidence adduced by both sides, it has been established that Rajalakshmi is the wife of Perumal. Perumal filed H.M.O.P.No.35 of 2014 before the Sub Court, Ponneri for divorce. In the divorce application, he took a stand that Vetrivel was not born to him. Therefore, DNA Test was ordered and its result showed that Vetrivel was born to Perumal and Rajalakshmi.

5.Learned counsel for Perumal contended that Rajalakshmi lodged a complaint for dowry harassment, based on which, a case was registered by the All Women Police Station, Thirumaiyam and a charge sheet in C.C.No.51 of 2014 was filed against him before the Judicial Magistrate, Thirumaiyam for the offences under Sections 498-A and Section 4 of Dowry Prohibition Act, in which Perumal was acquitted. Therefore, the counsel contended that only on account of Rajalakshmi's conduct, the couple got separated.

6.This Court is not able to agree with the said submission because Perumal filed divorce petition in H.M.O.P.No.35 of 2014, in which he took a stand that Vetrivel was not born to him. When the husband has taken such a stand, the wife would have felt shattered. Therefore, the finding of the trial Court that it was Perumal who had wilfully neglected to maintain his wife stands confirmed.

7.Coming to the quantum of maintenance, Rajalakshmi has filed Exs.P.5 and P.6 to show that house property stands in the name of Perumal and he also has agricultural properties. It was contended by Perumal before the trial Court that he is not gainfully employed after the spinal surgery he is said to have undergone. The trial Court has also given a finding that Perumal has got financial interest in Azhagi Plastic Company that is run by his family. Perumal has not given any cogent evidence about his employment particulars and his income. His contention that he is jobless and he is simply going around does not merit acceptance.

8.The trial Court, having taken into consideration the fact that a sum of Rs.3,000/- has been awarded as interim maintenance by the Sub Court, Ponneri in H.M.O.P.No.35 of 2014 filed by Perumal, clearly held that the sum of Rs.10,000/- awarded towards maintenance would be inclusive of the said Rs.3,000/-. Thus, in effect, the order of maintenance under this proceedings is only for Rs.7,000/-. Taking into consideration the cost of living index and other parameters, this Court is of the view that the maintenance awarded by the trial Court is not excessive, warranting interference.

9.Perumal has deposited Rs.25,000/- before the trial Court on 19.03.2018, which Rajalakshmi will be entitled to withdraw towards arrears of maintenance. Perumal also paid Rs.27,000/- by way of Demand Draft dated 25.01.2018 in favour of Rajalakshmi. Rajalakshmi, who is present before this Court stated that she has received the Demand Draft of Rs.27,000/-.



10. In such view of the matter, this Court does not find any reason to interfere with the order passed by the Court below. Accordingly, this Criminal Revision Case is dismissed and the order of the District Munsif cum Judicial Magistrate, Thirumaiyam dated 05.01.2018 in M.C.No.12 of 2015 stands confirmed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To:

The District Munsif cum Judicial Magistrate,
Thirumaiyam, Pudukottai District.

+ 1 CC TO Mr.C.ARUL VADIVEL @ SEKAR, ADVOCATE IN SR No. 56727
+ 1 CC TO Mr.S.RAMAKRISHNAN, ADVOCATE IN SR No. 56748

SJ
TE/KKR/SAR-4 : 04/04/2018 : 3P/4C

CrI.R.C.(MD) No.91 of 2018 and
CrI.M.P.(MD) No.1165 of 2018
21.03.2018