



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.09.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.(MD)No.5824 of 2014
and
M.P(MD).No.2 of 2014

R.Sivakumar

... Petitioner

Vs.

Akila

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to allow this original petition and set aside and reverse the impugned order passed by the learned II Additional District Sessions Court, Trichirappalli in Cr.R.C.No.38 of 2012 dated 23.08.2013 modifying the order passed in M.C.No.84 of 2006 by the Chief Judicial Magistrate, Trichirappalli, dated 29.05.2012.

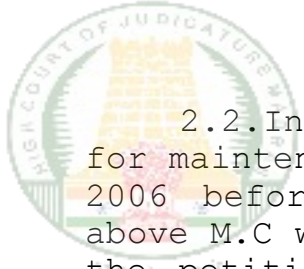
For Petitioner : Mr.K.K.Kannan
For Respondent : Mr.Jameel Arasu

O R D E R

This Criminal Original Petition has been filed to set aside and reverse the impugned order passed by the learned II Additional District Sessions Court, Trichirappalli in Cr.R.C.No.38 of 2012 dated 23.08.2013 modifying the order passed in M.C.No.84 of 2006 by the Chief Judicial Magistrate, Trichirappalli, dated 29.05.2012.

2.The brief facts of the case are as follows:

2.1. The marriage between the petitioner and the respondent was solemnized on 02.06.2005 at Pondicherry as per the Hindu Rites and Custom. But, there was no co-habitation or conjugal happiness between them at any point of time. It is submitted that the petitioner has filed a petition before the Family Court at Pondicherry under Section 12(1)(a) of the Hindu Marriage Act, which transferred to the Court of the Principal Sub Judge at Trichy in HMOP.No.20 of 2007 for grant of a decree declaring the marriage which took place between the petitioner and the respondent as null and void. It is further submitted that the main allegations against the revision petitioner is that he demanded dowry of Rs.20,00,000/- from the respondent.



2.2. In the above circumstances, the respondent filed a petition for maintenance case against the revision petitioner in M.C.No.84 of 2006 before the Chief Judicial Magistrate at Trichirappalli. The above M.C was allowed by awarding maintenance to the respondent that the petitioner should pay a sum of Rs.12,000/- per month to the respondent by order dated 28.05.2012. Aggrieved over the same, the petitioner filed an appeal in Cr.R.C.No.38 of 2012 before the Principal District Sessions Judge, Trichy. The above appeal was dismissed on 23.08.2013, however modified the quantum of Rs.12,000/- as awarded by lower Court to Rs.6,000/- per month to the respondent considering that the petitioner has no income source at all but failed to note that the marriage solemnized between them is liable to be declared as null and void.

3. Aggrieved over the same, this present criminal original petition has been filed. The learned counsel for the petitioner would submit that the petitioner is an unemployed and have no finance source to meet out his basic needs. The impugned orders opposed the basic criminal jurisprudence and the probabilities of law. He further submitted that the petitioner is suffered a lot by the respondent's torture by making false complainants against him. Therefore, he prays to set aside and reverse the impugned order passed by the learned II Additional District and Sessions Judge, Trichy in Cr.R.C.No.38 of 2012 dated 23.08.2013 modifying the order passed in M.C.No.84 of 2006 by the Chief Judicial Magistrate, Trichy.

4. Considering the above facts and circumstances, there is absolutely no irregularities and infirmities in the order passed by the learned II Additional District and Sessions Judge, Trichy in Cr.R.C.No.38 of 2012. Therefore, this petition is not maintainable as against the Cr.R.C.No.38 of 2012, since the petitioner already availed an appeal remedy in Cr.R.C.No.38 of 2012 against the order passed in M.C.No.84 of 2006 on the file of the Chief Judicial Magistrate, Trichy. Therefore, this Court is not inclined to entertain this criminal original petition.

5. Accordingly, this criminal original petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-I)

To

<https://hcservices.ecourts.gov.in/hcservices/>

1. The II Additional District Sessions Judge,
Trichirappalli



2. The Chief Judicial Magistrate, Trichirappalli

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.K.K.KANNAN, ADVOCATE IN SR No. 84108

+ 1 CC TO Mr.B.JAMEEL ARASU, ADVOCATE IN SR No. 84143

MSA

TE/SV/SAR-1 : 11/12/2018 : 3P/6C

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