



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON: 10.04.2018

DELIVERED ON : 10.07.2018

WEB COPY

CORAM
THE HONOURABLE MRS. JUSTICE R. THARANI

Cr1. R.C.(MD)No.156 of 2014
and
M.P.(MD)No.1 of 2014

S.R.Ismail Khan .. Petitioner
Vs.

1.I.Rabiya Basheeri,

2.Minor I.Ameer Khan
(Rep through his mother and
natural guardian the first petitioner) .. Respondents

Prayer : This revision case is filed under Sections 397(1) and 401 of Cr.P.C., to call for the records from the learned Family Court, Madurai in Cr.M.P.No.7 of 2011 in M.C.No.74 of 2008 and set aside the same.

For Petitioner : Mr.M.Mohammed Nowsath
For Respondents : Mr.C.M.Arumugam

ORDER

Heard Mr.M.Mohammed Nowsath, learned counsel appearing for the petitioner and Mr.C.M.Arumugam, learned counsel appearing for the respondents.

2.This revision case has been filed to set aside the order passed by the learned Family Court, Madurai in Cr.M.P.No.7 of 2011 in M.C.No.74 of 2008 dated 04.01.2014.

3.The facts of the case as narrated by the petitioner is that the petitioner married the first respondent on 14.12.2003. Out of the wedlock, they got a male child, namely, I.Ameer Khan, who is the second respondent herein. Due to some misunderstanding, the first respondent left her matrimonial home and lodged a false complaint against the petitioner and his parents before the All Women Police Station, Tallakulam. Subsequently in order to extract money from the petitioner, the first respondent herein filed a petition under Section 125 of Cr.P.C. before the learned Family Court, Madurai. Meanwhile, the revision petitioner and his parents made so many mediation, arbitrations and conciliations with the help of senior members of both the families as well as the Jamaath. But they were not materialized. The family Court has passed an order directing the petitioner to pay a sum of Rs.1,500/- (Rupees One Thousand and Five Hundred only) each per month towards interim maintenance to the



respondents from 01.01.2015 onwards. Against the order, the petitioner has filed this petition before this Court.

4. On the side of the petitioner, it is stated that the lower Court has failed to consider that the first respondent had clearly deposed that there is no property in the name of this petitioner and his family members. It is stated that the lower Court has failed to consider that the first respondent is working as a nurse in a private nursing home and having earning on her own. It is further stated that the lower Court has failed to consider the earning capacity of the revision petitioner and prayed that the order of the lower Court is to be set aside.

5. On the side of the respondents, it is stated that M.C.No.74 of 2008 is still pending and is posted for cross examination of the revision petitioner. It is stated that only nominal amount is awarded by the Family Court and the marriage and paternity of the child is admitted. It is the duty of the petitioner to maintain his wife and son.

6. Records perused. The revision petitioner and the first respondent got married, and the second respondent is the son of the revision petitioner and the first respondent. These facts are admitted. The lower Court came to the conclusion that the revision petitioner is having a own house as it is admitted by the petitioner that he is residing in his own house. The petitioner did not produce any other document except Ex.R1 to show that the first respondent is still working as a nurse in that hospital. The contention of the petitioner that he is earning only a sum of Rs.60/- (Rupees Sixty only) per day is unbelievable. The order passed by the lower Court is reasonable and is necessary for the survival of the respondents. There is no merits in this petition. This criminal revision case is dismissed. Consequently, M.P.(MD)No.1 of 2014 is closed.

Sd/

Assistant Registrar (Crl Side)

/True copy/

Sub Assistant Registrar (CS-III)

To

1. The Judge, Family Court, Madurai.

2. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**

+1cc to Mr.C.M.ARUMUGAM, Advocate, SR.No. 72093

Crl. R.C. (MD) No.156 of 2014

10.07.2018

MRN

KK/RP/SAR-3/27.07.2018/2P-5C/

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