



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 23.04.2018

DELIVERED ON : 21.06.2018

CORAM :

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.R.C.(MD) No.743 of 2017

and

Crl.M.P.(MD) No.8667 of 2017

Kaja Syed Ali

... Petitioner

vs.

Rahmat

... Respondent

Prayer:- Criminal Revision Petition filed under Sections 397 r/w. 401 of the Code of Criminal Procedure, 1973, to set aside the order passed in M.C.No.23 of 2017 on the file of the Family Court, Tirunelveli Dated 29.04.2017.

For Petitioner : Mr.R.Mohanasundaram

For Respondent : Mr.D.Selvakumar

ORDER

Heard Mr.R.Mohansundaram, learned counsel appearing for the petitioner and Mr.D.Selvakumar, learned Government Advocate (Crl.Side) appearing for the respondent.

2.This petition has been filed to set aside the order passed in M.C.No.23 of 2017 on the file of the Family Court, Tirunelveli Dated 29.04.2017.

3.After the trial, the Family Court, Tirunelveli allowed the maintenance petition and passed an order that the husband has to pay a sum of Rs.3,000/- (Rupees Three Thousand only) per month from 17.03.2017 and to pay the amount on or before 10th of every English calendar month.

4.On the side of the petitioner, it is stated that from the date of marriage, the respondent picked up quarrel with the petitioner and insisted him to go for separate residence and there is no co-habitation between the husband and wife. It is stated that the respondent has not produced any document to show that the income of the petitioner and the lower Court failed to consider that the respondent herself is earning a sum of Rs.3,000/- (Rupees Three Thousand only) per month. It is stated that the petitioner has to take care of his aged parents and his children born through his first wife. It is further stated that the respondent has suppressed the fact that she is only the second wife to the petitioner.



5. On the side of the petitioner, he relied on the order passed by this Court in the case of **Varadharajan v. Mythili and Another** reported in **(2017) 3 MLJ (Cr1) 599**, which reads as follows:

"While awarding maintenance in favour of wife and children, Court should take into consideration his responsibility to look after aged old parents - Trial Court awarded amount for wife and daughter leaving only meager amount to husband for maintenance of himself and his ailing father"

6. On the side of the respondent, it is stated that the petitioner is earning a sum of Rs.7,000/- (Rupees Seven Thousand only) to Rs.12,000/- (Rupees Twelve Thousand only) per month. He is doing painting and also cooking work. It is further stated that the petitioner has accepted to pay a sum of Rs.3,000/- (Rupees Three Thousand only) to the respondent herein and he is bound by his admission.

7. Records perused. A perusal of the records reveals that on 29.04.2017, the petitioner was examined as P.W.1 and in his evidence, he has accepted that he is ready to pay a sum of Rs.3,000/- (Rupees Three Thousand only) to his wife. The petitioner has himself admitted before the lower Court that he is ready to pay a sum of Rs.3,000/- (Rupees Three Thousand only). The respondent has no need to prove her case the quantum was admitted by the petitioner.

8. In the above circumstances, the petitioner cannot now question the maintenance award passed on his admission. The reasons stated in this petition are not satisfactory, hence, this Criminal Revision Case is dismissed. Consequently, Cr1.M.P.(MD) No.8667 of 2017 is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To
The Family Court, Tirunelveli.

+1cc to Mr.C.K.M. Appaji, Advocate Sr.No.69038

MRN

VB/PN/SAR2/04.07.2018/2P/3C