



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.(MD)No.764 of 2017

and

Crl.M.P.(MD)No.9094 of 2017

L.Ramesh Kumar

: Petitioner / Appellant /
Respondent

-Vs.-

1.K.Jeyanthi

2.Minor.Pavithra

3.Minor.Shivani

: Respondent / Respondent /
Complainant

[The first respondent is the mother and natural guardian of the second and third respondents]

Prayer: Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C., to allow the above revision petition and consequently set aside the order passed by the learned Judicial Magistrate No.V, Madurai, made in Crl.M.P.No.1 of 2011 dated 04.10.2013 as partly confirmed by the learned First Additional District and Sessions Judge of Madurai made in C.A.No.47 of 2013 dated 19.07.2016.

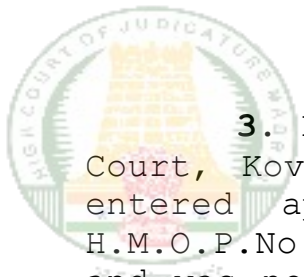
For Petitioner : Mr.R.M.Makesh Kumaravel

For Respondents : Ms.K.Vidya

O R D E R

Ramesh Kumar got married to Jeyanthi on 07.02.2000. Through the wedlock, they have two daughters, by name, Pavithra [D.O.B: 11.10.2001] and Shivani [D.O.B: 19.03.2004].

2. Admittedly, Ramesh Kumar is a Havildar in the Indian Army serving in the borders at Gujarat. It appears that Jeyanthi has been given employment as Secondary Grade Teacher under Army Quota and she is now presently working as a Secondary Grade Teacher in a Government School in Madurai. Their marriage ran into rough weather, resulting in, they getting estranged.



3. Ramesh Kumar filed H.M.O.P.No.113 of 2010 before the Sub Court, Kovilpatti, for restitution of conjugal rights. Jeyanthi entered appearance and filed her counter on 09.12.2010 in H.M.O.P.No.113 of 2010 alleging that she was subjected to cruelty and was not agreeable for joining with her husband. However, she did not take further part in the proceedings, resulting in, the Sub Court, Kovilpatti, passing an ex-parte decree in H.M.O.P.No.113 of 2010 on 25.11.2011 in favour of Ramesh Kumar.

4. In the meantime, Jeyanthi filed H.M.O.P.No.347 of 2011 for divorce before the Family Court, Madurai, and ex-parte decree has been passed in her favour on 19.06.2013. Jeyanthi also initiated proceedings in Crl.M.P.No.1 of 2011 before the learned Judicial Magistrate No.V, Madurai, under the Domestic Violence Act, claiming various reliefs, in which, Ramesh Kumar has been set ex-parte on 04.10.2013. The learned Judicial Magistrate No.V, Madurai, has directed Ramesh Kumar to pay monthly maintenance of Rs.22,000/-, compensation of Rs.1,00,000/- and also provide rent free accommodation. Aggrieved by the said order, Ramesh Kumar filed C.A.No.47 of 2013, in which, the learned First Additional District and Sessions Judge, Madurai, on 19.07.2016, has confirmed the order of the trial Court, directing Ramesh Kumar to pay Rs.22,000/- per month as monthly maintenance and Rs.1,00,000/- as compensation, but has set aside the order, which provided for free accommodation to Jeyanthi. Aggrieved by the Appellate Court Order, Ramesh Kumar has filed the present Criminal Revision Case with a delay of 239 days.

5. This Court, by order dated 22.09.2017, has condoned the delay of 239 days on condition that Ramesh Kumar should deposit Rs.2,00,000/- to the credit of Crl.M.P.No.1 of 2011, before the learned Judicial Magistrate No.V, Madurai. Accordingly, Ramesh Kumar has deposited the said amount and therefore, this Criminal Revision Case has been numbered.

6. Heard Mr.R.M.Makesh Kumaravel, learned counsel appearing for the petitioner and Ms.K.Vidya, learned counsel appearing for the respondents.

7. It is seen that Ramesh Kumar is serving in the Indian Army and gets posted at various places in the country. On account of that, he was not able to appear before the trial Court to defend the case effectively. It is common knowledge that leave will not be easily granted for the personnel serving in the Army. Of course, that cannot be a good reason to interfere with the orders passed by the Courts below without imposing conditions.

8. This Court is of the view that it will be in the fitness of things, if Ramesh Kumar is directed to deposit Rs.2,50,000/- [Rupees Two Lakhs and Fifty Thousand only] to the credit of



Crl.M.P.No.1 of 2011 before the learned Judicial Magistrate No.V, Madurai, on or before 06.05.2018.

9. On such deposit, Jeyanthi will be entitled to withdraw the same. Jeyanthi will also be entitled to withdraw Rs.2,00,000/- [Rupees Two Lakhs only] that has been deposited by Ramesh Kumar vide earlier order in Crl.M.P.(MD)No.6150 of 2017. Ramesh Kumar and Jeyanthi shall appear before the learned Judicial Magistrate No.V, Madurai at 10.30 a.m., on 07.05.2018. If Ramesh Kumar is not able to be present on that day, permission is granted to him to appoint a Power of Attorney to represent him before the learned Judicial Magistrate No.V, Madurai. On that day, he shall file his counter in Crl.M.P.No.1 of 2011. The Judicial Magistrate No.V, Madurai, is directed to complete the proceedings in Crl.M.P.No.1 of 2011, within a period of six months from 07.05.2018.

10. In the result, this Criminal Revision Case is disposed of. Consequently, the connected Miscellaneous Petition is closed.

sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar

sm

To

1.The First Additional District and Sessions Judge,
Madurai.

2.The Judicial Magistrate No.V, Madurai.

+1cc to Mr.R.M.Makesh Kumaravel, Advocate in SR.No.52855

+1cc to M/s.K.Vidhya, Advocate in SR.No.53459

GJM/CSL/RR/SAR-2-27.3.18-3P-5C

Order made in
Crl.R.C. (MD)No.764 of 2017
05.03.2018