



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl. R.C.(MD)No.813 of 2017

and

Crl.M.P.(MD)No.10051 of 2017

Subburam

... Revision Petitioner / Respondent

-Vs.-

Rajeshwari

... Respondent / Petitioner

Prayer: Criminal Revision Case - filed under Section 397 r/w 401 Cr.P.C., to call for the records in M.C.No.1 of 2014 on the file of the learned Judicial Magistrate, Villathikullam and set aside the order dated 28.08.2017.

For Petitioner : Mr.S.Poornachandran

For Respondent : Mr.M.Suresh Babu

O R D E R

Rajeshwari got married to Subburam on 06.08.1997. After some time, the relationship soured and they got estranged. Rajeshwari filed several police complaints against Subburam. While so, Subburam filed H.M.O.P.No.57 of 2014 for Restitution of Conjugal Rights against Rajeshwari before the Sub Court, Kovilpatti. Rajeshwari filed M.C.No.1 of 2014 under Section 125 Cr.P.C. before the learned Judicial Magistrate, Villathikulam against Subburam claiming maintenance of Rs.10,000/- per month.

2. On behalf of Rajeshwari, two witnesses were examined and three documents were marked. On behalf of Subburam, one witness was examined and four documents were marked.

3. After considering the evidence adduced by both sides, the trial Court had given a finding that Rajeshwari had got separated from Subburam for no good reasons. But, however, the trial Court, on moral grounds felt that Rajeshwari requires to be maintained by Subburam and therefore, by order dated 28.08.2017 in M.C.No.1 of 2014, has directed Subburam to pay Rs.3,000/- per month as maintenance with effect from 28.08.2017. In fact, the learned Judicial Magistrate, Villathikulam, has consciously not directed Subburam to pay maintenance from the date of filing the petition. However, the trial Court has rendered the finding of the effect that Subburam is not at fault for the estrangement. Challenging the said order, Subburam is before this Court.



4. Heard both the learned counsel appearing for the parties.

5. Mr.S.Poornachandran, learned counsel appearing for Subburam submitted that Subburam is ready to live with Rajeswari. He also contended that Subburam had filed H.M.O.P.No.57 of 2014 for restitution of conjugal rights before the Sub-Court, Kovilpatti.

6. The learned counsel for Rajeshwari submitted that the said petition was dismissed on 06.03.2017.

7. Be that as it may, in the opinion of this Court, the order passed by the trial Court does not suffer from any serious illegality or perversity warranting interference.

8. After all, the marital relationship is not in dispute and the relationship survives. A sum of Rs.3,000/- per month in today's cost of living cannot be said to be excessive.

9. The trial Court has awarded this amount on humanitarian ground and not otherwise.

10. In such view of the matter, this Court does not find any serious infirmity in the order passed by the trial Court warranting interference. Hence, this Criminal Revision Case is dismissed. If any amount is deposited by Subburam pursuant to the interim order of this Court, it shall be disbursed to through the trial Court to Rajeshwari. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To
The Judicial Magistrate,
Villathikullam.

+1CC to Mr.S.Pon Senthilkumaran, Advocate, SR.No. 41776

Crl. R.C.(MD)No.813 of 2017
10.01.2018

sm
AM/KK/SAR 2/01.02.2018/2P/3C