



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.R.C.(MD)No.937 of 2017

Balaganesan : Petitioner/ Petitioner

Vs.

Maria Pushbam : Respondent/ Respondent

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to set aside the order of the Trial Court in CrI.M.P.No.3205 of 2016, dated 23.10.2017 on the file of the learned Principal Sessions Judge, Tirunelveli.

For Petitioner : Mr.R.Ramachandran
For Respondent : Mr.M.S.Jeya Karthick

ORDER

For the sake of convenience, the parties will be referred to by their name.

2. It is the case of Maria Pushbam that she got married to Balaganesan on 06.09.1998 and that he had deserted her. Therefore, Maria Pushbam filed M.C.No.22 of 2011 under Section 125 of the Code of Criminal Procedure before the learned District Munsif -cum-Judicial Magistrate, Sivagiri against Balaganesan. Balaganesan entered appearance and contested the case. On behalf of Maria Pushbam, she examined herself as P.W.1 and marked one Exhibit. Balaganesan examined himself as R.W.1 and did not mark any Exhibit. The Trial Court, by order dated 02.04.2016 in M.C.No.22 of 2011, has directed Balaganesan to pay Rs.3,000/- per month as maintenance to Maria Pushbam from 18.10.2011 onwards. Challenging the order passed by the Trial Court, Balaganesan filed a Criminal Revision Case before the Sessions Court with a delay of 294 days and for condoning the delay, he filed a petition in Cr.M.P.No.3205 of 2016 under Section 5 of the Limitation Act, which has been dismissed by the learned Principal Sessions Judge, Tirunelveli, on 23.10.2017, challenging which, Balaganesan is before this Court.

3. Heard Mr.R.Ramachandran, learned counsel for Balaganesan and Mr.M.S.Jeya Karthick, learned counsel for Maria Pushbam.

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4. The Sessions Court has given a finding that though the Trial Court had passed orders on 02.04.2016, Balaganesan had filed copy

application only on 27.06.2016. The Sessions Court has also found that Balaganesan has not paid a single paise to Maria Pushbam. All these factors have been taken into consideration and the Delay Condonation Application has been dismissed by the Sessions Court.

5. The learned counsel for Maria Pushbam submitted that the arrears of maintenance as on date is Rs.1,92,000/- (Rupees One Lakh and Ninety Two Thousand only). On 14.03.2018, this Court directed Balaganesan to deposit at least Rs.1,00,000/- (Rupees One Lakh only) and gave time till today.

6. The learned counsel for Balaganesan submitted that Balaganesan does not have the means to pay the amount.

7. The learned counsel for Maria Pushbam submitted that Balaganesan has got married to another girl, by name Murugathal, about which, there is a finding in the order passed by the Trial Court.

8. In such view of the matter, this Court is of the view that this is not a fit case to interfere in the order passed by the Court below.

9. In the result, this Criminal Revision Case is devoid of merits and the same is, accordingly, dismissed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

The Principal Sessions Judge,
Tirunelveli.

+1CC TO M/S.R.RAMACHANDRAN, ADVOCATE, SR NO.56372

+1CC TO M/S.M.J.JEYAKARTHIK, ADVOCATE, SR NO.56597

Order made in
Cr1.R.C.(MD)No.937 of 2017
20.03.2018

SML

MS/SV-MMS/SAR-1/03.04.2018/2P.4C