

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2019

CORAM

THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

Cr1.RC.No.252 of 2019
and
Cr1.M.P.No.2723 of 2019

J.Solomon Gnanam Jebaraj

... Petitioner

Vs

1.Monicta

2.Gabriel Jude Solomon
rep by 1st Respondent and next Friend

... Respondents

PRAYER: Criminal Revision Case filed under Section 397 and 401 of Cr.P.C, to call for the records in M.C.No.104 of 2012 dated 13.06.2018 on the file of the learned VII Additional Family Court, Chennai and set aside the same.

For Petitioner : No appearance

For Respondents : Notice served - No appearance

O R D E R

This Criminal Revision Case has been filed by the petitioner to call for the records in M.C.No.104/2012 dated 13.06.2018 on the file of the learned VII Additional Family Court, Chennai and set aside the same.

2. Today when the matter is taken up for hearing, none appeared on behalf of the petitioner as well as the respondents and perused the materials available on record.

3. The petitioner is the husband and the first respondent is wife and the second respondent is a minor son. The respondents have filed a petition before the Family Court under Section 125 of Cr.P.C. for getting maintenance in M.C.No.104 of 2012. The Family Court, after completing the enquiry, found that the

revision petitioner/husband has sufficient means to maintain his wife and son. The first respondent/wife has no means to maintain herself and her son. Therefore, the revision petitioner is liable to pay a sum of Rs.5,000/- to the first respondent/wife and to pay a sum of Rs.2,500/- to the second respondent/minor son. Totally, the learned Judge has awarded a sum of Rs.7,500/- and the same shall be paid on or before 5th of every month.

4. Challenging the said order passed by the Family Court in M.C.No.104 of 2012, the husband has preferred this revision before this Court with the delay of 656 days in filing the revision and seeks to condone the same.

5. Notice has been served to the respondents and name has also been printed in the cause list. None appeared on behalf of the respondents.

6. Though the revision petitioner has not denied with regard to the employment. Only the defense taken by the petitioner is that his wife is employed. But no documents has been produced to prove that the first respondent is employed and she is able to maintain herself. Therefore, need not paid the maintenance. Further he spent money to the first respondent father's ailment and after the death of her father's ceremony. Hence the learned counsel for the petitioner prays this Court to set aside the order of the Family Court in M.C.No.104 of 2012 dated 13.06.2019.

7. This Court has carefully gone through the papers placed before it. On a reading of the grounds, it is seen that the respondent is not earning member and she is unable to maintain herself. Admittedly both the respondents viz., wife and son were living separately. The revision petitioner has not proved that the respondents left the matrimonial home without any valid reason. The petitioner has admitted that he is earning a sum of Rs.34,000/- per month and no document has been

produced to prove the first respondent/wife is employed and she is able to maintain herself. The learned Magistrate has awarded a sum of Rs.7,500/- (Seven Thousand Five Hundred only) towards monthly maintenance to his wife and minor son is very reasonable.

8. Considering the facts and circumstances of the case and on a reading of the materials, there is no dispute with reference to the relationship of husband and wife and there is no dispute regarding the paternity of the child. The first respondent/wife stated that the petitioner is well off in finance and he has sufficient means despite having sufficient

mean he refused to maintain the wife and child. Whereas the wife and child were unable to maintain themselves.

9. In view of the above, on the basis of admitted facts, this Court does not find any reason to interfere with the order passed by the learned Judge, Family court, by entertaining the present criminal revision case.

10. The petitioner/husband is directed to continue to pay the monthly maintenance regularly without any default.

11. In the result, the revision case is liable to be dismissed and the same is dismissed accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The VII Additional Judge,
Family Court, Chennai.

+1cc to M/S.S.Thamizharasi, Advocate Sr.15016

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