

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1421 of 2011

and

Crl.M.P.No.1 of 2011

N. Anandakumar

...Petitioner

-Vs-

A. Pratheeba

...Respondents

This Criminal Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C. to call for the records in order dated 18.11.2010 made in M.C.No.22 of 2009 on the file of the learned Additional District Munsif cum Judicial Magistrate, Ambur.

For Petitioner : No appearance

For Respondents : Mr.K.R.Ramesh Kumar

O R D E R

This Criminal Revision has been filed by the petitioner to call for the records in order dated 18.11.2010 made in M.C.No.22 of 2009 on the file of the learned Additional District Munsif cum Judicial Magistrate, Ambur.

2. The revision petitioner is the husband and the respondent is his wife. The marriage between the petitioner and the respondent was solemnized on 22.07.2007. Due to difference of opinion, the petitioner and the respondent were living separately. The respondent filed a maintenance case under Section 125(1) of Cr.P.C. in M.C.No.22 of 2009 before the learned Additional District Munsif-cum-Judicial Magistrate, Ambur. The learned Magistrate, after adverting to the materials placed on record and after hearing both the parties, allowed the petition and the petitioner was directed to pay a sum of Rs.3,000/- per month to the respondent towards maintenance.

3. Though, the case of the respondent is that the revision petitioner is working as Unit Manager in ICICI Prudential Insurance and getting Salary more than Rs.45,000/-. Therefore she asked Rs.15,000/- per month as maintenance. During trial,

both the parties have not produced the income source of them. After enquiry, the learned Magistrate came to the conclusion that the revision petitioner would earn minimum Rs.10,000/-, therefore, he was directed to pay a sum of Rs.3,000/- as maintenance.

4. Challenging the said order of maintenance, the revision petitioner/husband has filed the present revision before this Court.

5. Heard the learned counsel for the respondent and perused materials available on record.

6. When the matter came up for hearing on 10.07.2019, there was no representation on behalf of the petitioner and directed to post on 15.07.2019. Even today, there is no representation on behalf of the petitioner/wife. Despite giving sufficient opportunities, the revision petitioner has not come forward to proceed with the case, since the matter is pending from 2012, this Court is inclined to dispose the revision on merits.

7. Though the revision petitioner has stated that he was not working as Manager and not earning Rs.45,000/-. He has admitted that he is working as an Agent in ICICI Prudential Insurance and earning a sum of Rs.10,000/- But he has not produced any document to show that he is working as an Agent. At the time of filing the petition, he was earning only Rs.4,000/-. Even without any proof, the learned Magistrate has assumed that the petitioner would earn a sum of Rs.10,000/- and awarded Rs.3,000/- as maintenance to the respondent. After awarding that, the petitioner has not paid any amount to the respondent.

8. The learned counsel for the respondent is not in a position to say that the order of the Family Court has complied with by the revision petitioner. Since the matter is pending from 2012, the parties are not interested to proceed the matter.

9. On a perusal of the records, the relationship of both the parties are not in dispute. However, the income of the petitioner, neither proved by the petitioner, nor the respondent. The petitioner has admitted that he is working as an Agent in ICICI Prudential Insurance. Whether he is working as Agent or Manager, the petitioner has not produced any document to show that he is working as Agent and getting a sum of Rs.4,000/- only. The petitioner has withheld the documents about his employment and income. Hence, the Court can draw adverse inference. In the absence of documents and considering the nature of the claim and also the cost of living prevailing as on date, the learned District Munsif-cum-Judicial Magistrate, Ambur has awarded a sum of Rs.3,000/- is not excessive and the same is reasonable.

10. This Court finds that there is no reason to interfere with the order of the learned Additional District Munsif cum Judicial Magistrate, Ambur, in M.C.No.22 of 2009 dated 18.11.2010 and there is no merit in the revision.

11. In the result, the Criminal Revision Case is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed. The petitioner is directed to deposit the entire arrears of amount, after deducting the amount, if any already deposited. Further the petitioner is directed to continue to pay the maintenance amount as awarded by the learned Additional District Munsif cum Judicial Magistrate, Ambur, in M.C.No.22 of 2009 dated 18.11.2010 without any default.

rli

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

To
The Additional District Munsif cum
Judicial Magistrate, Ambur.

+1cc to Mr.K.R.Ramesh Kannan, Advocate, SR.No.60052

CrI.R.C.No.1421 of 2011
and
CrI.M.P.No.1 of 2011

Kak(22/10/2019)

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