

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:09.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1095 of 2012

and

M.P.No.1 of 2012

Ayyanar @ Ayyanarappan

...Petitioner/Respondent

-Vs-

Dhanabackiam@ Selvi

....Respondent/Petitioner

Prayer: Criminal Revision Case filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the order passed in M.C.No.1 of 2007, dated 27.09.2011, on the file of the learned Judicial Magistrate-II, Tindivanam.

For Petitioner : Mr.Thulshath Begum

For Respondent : Mr.S.Mazhaimani Pandian

O R D E R

The Criminal Revision Case has been filed to set aside the order passed in M.C.No.1 of 2007, dated 27.09.2011, on the file of the learned Judicial Magistrate-II, Tindivanam.

2. When the matter was taken up on 04.09.2012, 11.09.2012 and 05.08.2019, there was no representation on behalf of the petitioner. Despite giving several opportunities, the petitioner has not come forward to argue the matter and since the revision is pending from 2012, this Court is inclined to dispose of the revision on merits in accordance with law.

3. The petitioner and the respondent are husband and wife. The marriage between the petitioner and the respondent was solemnized on 14.06.1984 as per the Hindu rites and customs. Due to misunderstanding, they were living separately. Despite having sufficient means, the petitioner neglected and refused to maintain his wife. Therefore, the respondent filed a petition under Section 125 Cr.P.C., before the learned Judicial Magistrate-II, Tindivanam, for maintenance and the same was taken on file in M.C.No.1 of 2007. After hearing the arguments on both sides, the learned Magistrate directed the petitioner to pay a sum of Rs.3,000/- per month to the respondent as interim maintenance.

4. Challenging the said order passed by the learned Judicial Magistrate-II, Tindivanam, in M.C.No.1 of 2007 dated 27.09.2011, the petitioner has filed the present revision before this Court.

5. It is seen from the records, the respondent has stated that the petitioner herein is the husband and he has neglected to maintain his wife, despite having sufficient means. Therefore, she has filed maintenance case before the learned Judicial Magistrate-II, Tindivanam.

6. The revision petitioner has taken the main defence that the respondent is not his wife and her name has not included in the Family Card and the marriage invitation filed by the respondent is also forged one. After enquiry, the learned Judicial Magistrate, found that there is a material evidence to show that the respondent is the wife of the petitioner. Further, the learned Judicial Magistrate found that the petitioner has not denied the income.

7. On a reading of the evidence, the respondent herein claimed to be wife of the petitioner. In order to prove the case, she examined as P.W.1 and has produced the following documents;

- Ex.P1 - The marriage invitation of the respondent
- Ex.P2 - Settlement deed
- Ex.P3 - Family Card of the respondent
- Ex.P4 - Copy of the CSR.
- Ex.P5 - Acknowledgment received from the Collectorate
- Ex.P6 - House Tax Receipt
- Ex.P7 - Patta stands in the name of the respondent's father-in-law
- Ex.P8 - Copy of the 'A' Register

8. From the oral and documentary evidence, the respondent herein proved that the petitioner is her husband. Though the revision petitioner denied the relationship, but he has not proved the same. The petitioner has not produced the original settlement deed and also Family Card and other documents. The respondent has stated that the petitioner is having agricultural land and his income is Rs.2,75,000/- per year. But the said facts have not been denied by the petitioner.

9. The learned Magistrate rightly found that the petitioner and the respondent are husband and wife. On a perusal of the materials, the Family Court found that despite having sufficient means, the petitioner refused to maintain his wife. There is no

evidence to show that the respondent is having sufficient means to maintain herself.

10. Considering the cost of living prevailing as on date, being a lady it is very difficult to maintain herself. Hence, the learned Judicial Magistrate, awarded a sum of Rs.3000/- as maintenance, which is not an excessive. This Court finds that there is no perversity in the order passed by the learned Judicial Magistrate-II, Tindivanam, in M.C.No.1 of 2007, dated 27.09.2011 and there is no merit in the revision.

11. In the result, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed. Hence, the petitioner is directed to deposit the entire arrears of maintenance and further, the petitioner is directed to pay the monthly maintenance regularly to the respondent as ordered by the Family Court on or before every 5th day of every English Calender month without any default.

Sd/-
Assistant Registrar(JJ Act)

// True Copy//

Sub Assistant Registrar

rli

To

The Judicial Magistrate No.II, Tindivanam.

Crl.R.C.No.1095 of 2012
and
M.P.No.1 of 2012

MP(CO)
CSR: 10.02.2020

सत्यमेव जयते

WEB COPY