

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1199 of 2012

and

M.P.No.1 of 2012

K.Dhanapal @ Durai Chettiar

... Petitioner

Versus

1. D.Dhanalakshmi

2. D.Mekala

... Respondent

Criminal Revision cases filed under Article 307 r/w 401 of Criminal Procedure Code, to allow the revision and set aside the order dated 06.02.2012 of the learned District-cum-Judicial Magistrate, Sriperumbudur in M.C.No.2 of 2010 filed under Section 125 of Cr.P.C.

For Petitioner : Mr.T.V.Vineeth Kumar

For Respondents : Mr.G.Umapathy

O R D E R

The revision petitioner is the husband and the respondents are wife and minor daughter of the petitioner. The marriage between the petitioner and the first respondent was solemnized on 26.08.1990. Due to difference of opinion between them, the petitioner and the respondents are living separately. The respondents have filed a petition under Section 125 of Cr.P.C. before the learned District Munsif cum Judicial Magistrate, Sriperumbudur and the same was taken on file in M.C.02 of 2010. After hearing both sides, the learned Judge allowed the petition and directed the petitioner to pay a sum of Rs.2000/- per month to each of the respondents.

2. Challenging the said order passed by the learned District Munsif cum Judicial Magistrate, Sriperumbudur, dated 06.02.2012, the petitioner has filed this present revision before this Court.

3. The learned counsel appearing on behalf of the petitioner would submit that already Rs.1,00,000/- paid to the

respondents as full and final settlement. Therefore, the respondents are not entitled to claim any maintenance. The learned counsel would further submit that the first respondent is working in a private company and earning a sum of Rs.20,000/- per month and the petitioner is not having sufficient means to pay the monthly maintenance as ordered by the Court below. Hence, the learned counsel prays this Court to set aside the order of the trial Court.

4. The learned counsel for the respondents would submit that the petitioner and the first respondent are living separately and the second respondent is under the care and custody of the first respondent. The respondents are not having any income to maintain themselves. The first respondent is not working anywhere. There is no proof to show that the first respondent/wife is earning a sum of Rs.20,000/-. Therefore, the order passed by the learned District Munsif cum Judicial Magistrate, does not warrant any interference of this Court.

5. Heard the learned counsel for the petitioner as well as the learned counsel for the respondents and perused the materials available on record.

6. From the pleadings and materials as placed for consideration before this Court, it could be seen that the relationship of the parties are not in dispute and the paternity of the child is not in dispute and the respondents were living separately also not in dispute. Only defence taken by the revision petitioner/husband is that the first petitioner is working in a private company and earning a sum of Rs.20,000/- per month and the petitioner is unemployed. He has no means to maintain the respondents.

7. The learned Magistrate has observed that the evidence of P.W.1, during the examination on the side of the revision petitioner, it was suggested that the revision petitioner was having agricultural income and at that time, he was doing coolie work and he has not stated that he is unable to do any work.

8. Therefore, the learned District Munsif cum Judicial Magistrate has awarded a sum of Rs.4,000/- per month towards maintenance to the respondents. This Court does not find any valid reason to interfere with the order of the Court below. Considering the facts and circumstances of the case, this Court finds that there is no merits in the revision case and this Court is not inclined to interfere with the order passed by the trial Court.

9. Further, the petitioner is directed to pay the entire arrears of maintenance, if not paid already. The petitioner is

directed to pay the arrears of maintenance to the respondents within a period of four weeks from the date of receipt of a copy of this order and also the petitioner is directed to continue to pay the maintenance to the respondents which was ordered by the District Munsif cum Judicial Magistrate, Sriperumbudur in M.C.No.2 of 2010 dated 06.02.2012. Failing which the respondents can initiate appropriate action against the petitioner/husband in accordance with law. On such deposit, the respondents are at liberty to withdraw the same.

10. With the above observation and direction, the Criminal Revision case is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

rli

To

The District-cum-Judicial Magistrate,
Sriperumbudur

+1cc to Mr.G.Umapathy, Advocate SR.No.50577

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VD(CO)
GMY(02/08/2019)

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