

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:09.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1358 of 2012

and

M.P.No.1 of 2012

M.L.Rajan

...Petitioner

-Vs-

1. Jesela

2. Minor R.J.Enoch Alan

3. Minor R.J.Phebe Alice

R2 & R3 are rep. by their mother,

Natural Guardian Mrs.Jesela

....Respondents

Prayer: This Criminal Revision is filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the decreetal and fair order dated 08.07.2011, passed in M.C.No.201 of 2007, dated 08.07.2011, on the file of the learned I Additional Judge, Family Court, Chennai.

For Petitioner: Petitioner name printed
in the cause list - No appearance

For Respondents : Mr.K.S.Kumar

O R D E R

The Criminal Revision Case has been filed to set aside the decreetal and fair order dated 08.07.2011, passed in M.C.No.201 of 2007, dated 08.07.2011, on the file of the learned I Additional Judge, Family Court, Chennai.

2. When the matter was taken up for hearing on 05.08.2019, there was no representation on behalf of the petitioner. Therefore, this Court was directed the Registry to remove the name of the learned counsel on record and print the name of the petitioner in the cause list and posted the matter on 08.08.2019. Even today also, there is no representation on behalf of the petitioner. The revision is pending from the year 2012. Therefore, this Court is inclined to dispose of the revision on merits in accordance with law.

3. It is seen from the records, the petitioner and the first respondent are the husband and wife. The second and third respondents are their children. The marriage between the petitioner and the first respondent was solemnized on 22.06.2000 as per Indian Christian Marriage Act at CSI Church, Arumanai, Nagercoil. After marriage, as per the wish of the first respondent and her parents, the couple were residing with the first respondent's parents house at Chennai. Thereafter, the petitioner was transferred to State Transport Corporation of Tamilnadu, Nagercoil. While the petitioner was joined duty at Nagercoil, the first respondent requested the petitioner to get a rental house at Nagercoil. At request of his wife, the petitioner came to chennai, took his wife and daughter to Nagercoil in rental house at Nagercoil. Subsequently, the dispute arose between the petitioner and the first respondent. Due to misunderstanding, the first respondent left the matrimonial home along with her daughter.

4. According to the first respondent the petitioner caused untold suffering hardship, cruelty and mental agony to her and also used to abuse her in filthy language. Hence, she left the matrimonial home and living separately. Despite having sufficient means, the petitioner neglected and refused to maintain the respondents. The petitioner has filed a petition in HMOP. No.313 of 2007 for restitution of conjugal rights, which is pending. The respondents have filed a case under Section 125 Cr.P.C., before the learned I Additional Family Court, Chennai for maintenance and the same was taken on file in M.C.No.201 of 2007. After hearing both sides, partly allowed the case on 08.07.2011 directing the petitioner to pay a sum of Rs.3,000/- per month to the first respondent and to pay a sum of Rs.1,500/- per month each to the second and third respondents.

5. Challenging the order of the Family Court, the petitioner/husband has filed the present revision before this Court.

6. The learned counsel for the respondents would submit that the petitioner has not disputed the relationship between them. Admittedly the petitioner is working as a Mechanic in the State Transport Corporation at Nagercoil and earning Rs.10,000/- per month. Apart from this, the petitioner is getting income from Rubber Estate for a sum of Rs.5,000/- per month. Despite having sufficient means, he neglected to maintain his wife and children. The respondents have no income to maintain themselves. The Family Court rightly observed and came to a conclusion that the petitioner is liable to pay Rs.6,000/- to the respondents, does not warrants any interference.

7. Heard the learned counsel for the respondents and perused the materials available on record. There is no representation on behalf of the petitioner.

8. It is not in dispute that the petitioner and the first respondent are husband and wife, there is no dispute with regard to the marriage and paternity of their children and both are living separately.

9. According to the petitioner, the first respondent/wife left the matrimonial home without any valid reason. She is not entitled for getting any maintenance from the petitioner. Therefore, he filed a petition in HMOP. No.313 of 2007 for restitution of conjugal rights, which is pending.

10. The first respondent has stated that the petitioner has always doubted her fidelity and used to cause cruelty and abused her in filthy language. Therefore, she left the matrimonial home along with her daughter with valid reason.

11. Admittedly the petitioner is a Government Servant and earning a sum of Rs.10,000/- per month. The respondents have no means to maintain themselves. On a reading of the entire records, there is no dispute with regard to the relationship of the parties and they were living separately and the petitioner has sufficient means to maintain his wife and children.

12. On a perusal of the oral and documentary evidence, the Family Court found that despite having sufficient means, the petitioner refused and neglected to pay the maintenance to his wife and children. The respondents are unable to maintain themselves.

13. Considering the cost of living prevailing as on date, the second and third respondents are going to school, the Family Court awarded a sum of Rs.6000/- per month to the respondents as maintenance, is not an excessive. On a reading of the entire materials and the order passed by the Family Court, this Court does not find any perversity in the order and there is no merit in the revision. The revision is liable to be dismissed and accordingly, this Criminal Revision is dismissed. Consequently, connected miscellaneous petition is also closed.

14. However, the petitioner is directed to deposit entire arrears amount within a period of one month from the date of receipt of a copy of this order and the petitioner shall continue to pay the maintenance amount to the respondents as directed by the learned I Additional Family Court, Chennai in M.C.No.201 of 2007 dated 08.07.2011, on or before every 5th of

English Calender month, without any default. Failing which, the respondents are at liberty to take necessary steps through the Family Court.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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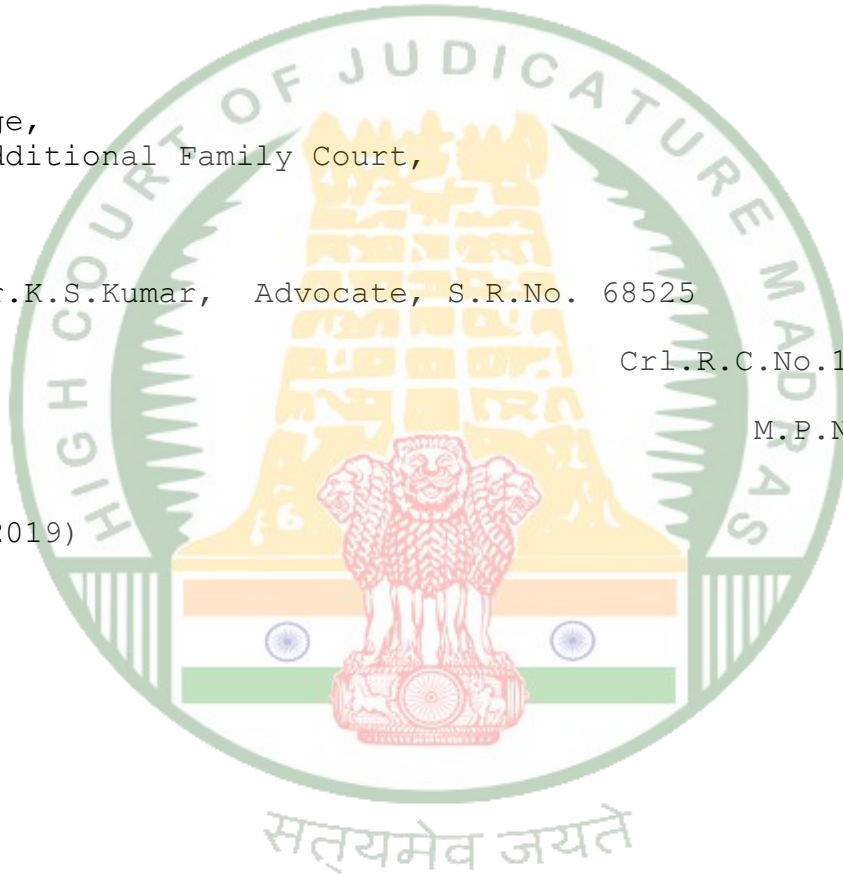
To

1.The Judge,
The I Additional Family Court,
Chennai.

+1cc to Mr.K.S.Kumar, Advocate, S.R.No. 68525

Crl.R.C.No.1358 of 2012
and
M.P.No.1 of 2012

NRL(CO)
GN(01/11/2019)



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