

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.137 of 2012

and

M.P.No.1 of 2012

Senthamarai Kannan

...Petitioner/Respondent

-Vs-

Ranganayaki

....Respondent/Petitioner

This Criminal Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order passed in M.C.No.162 of 2006 dated 25.03.2011 by the Family Court at Coimbatore.

For Petitioner : Mr.Ma.P.Thangavel

For Respondent : Mr.L.Mouli

O R D E R

This Criminal Revision has been filed by the petitioner to set aside the order passed in M.C.No.162 of 2006 dated 25.03.2011 by the Family Court at Coimbatore.

2. The revision petitioner is the husband and the respondent is the wife. The respondent has filed a petition before the Family Court, Coimbatore, under Section 125 Cr.P.C., praying interim maintenance, which was taken on file in M.C.No.162 of 2006. The Family Court after adverting to the materials placed on record and after hearing both the parties, allowed the petition and the respondent therein was directed to pay a sum of Rs.2,000/- to the petitioner. As against the same, the revision petitioner/husband has filed this present revision before this Court.

3. The learned counsel for the petitioner/husband would submit that the respondent/wife left the matrimonial home without any valid reason. Hence, she is not entitled to get any maintenance under Section 125 Cr.P.C. The respondent refused to live in the joint family. The petitioner/husband has filed a petition in H.M.O.P.No.177 of 2006 for restitution of conjugal rights and the same was allowed. Even after the order of the Family Court, the respondent has not come to matrimonial home.

Subsequently, the petitioner filed a petition for dissolution of marriage. Still the Family Court ordered a sum of Rs.2,000/- per month to the respondent for maintenance, which warrants interference.

4. The learned counsel for the respondent would submit that after the marriage, the revision petitioner started demanding dowry. Hence, the respondent left the matrimonial home. The respondent is not employed and she has no sufficient means to maintain herself. The learned counsel prays to dismiss this revision.

5. Heard the learned counsel appearing on behalf of the petitioner and the respondent and perused the materials placed on record.

6. The revision petitioner is the husband and the respondent is the wife. It is admitted that the marriage between the petitioner and the respondent was solemnized on 05.09.2005 and the respondent left the matrimonial home. The trial Court observed that though the respondent left the matrimonial home due to misunderstanding, neither the husband nor the parents of the husband tried to take her back to the matrimonial home. For name sake, the revision petitioner sent his brother and also subsequently, he filed the petition for restitution of conjugal rights and the same was allowed. The petitioner has not taken effective steps to take her back and left as it is. Subsequently, the petitioner filed a petition for dissolution of marriage and got divorce.

7. The learned counsel for the petitioner is not disputing with the means of the revision petitioner. The only contention raised by the learned counsel for the petitioner is that the respondent left the matrimonial home without any valid reason and the petitioner got an order of restitution of conjugal rights. Unless the husband proved that the wife remarried or she is leading a immoral life, or without any reason she left the companion. In this case, these facts have not been established by the revision petitioner/husband.

8. The Family Court has rejected the contention of the revision petitioner/husband that without any reason, his wife left the matrimonial home. This Court has discussed the attitude of the revision petitioner and his parents. The evidence itself shows that neither the petitioner nor his parents has taken any steps to bring back the respondent to the matrimonial home.

9. The relationship is not disputed and source of the income of the revision petitioner is also not disputed. The fact that the respondent/wife has no means to maintain herself is also not

disputed. Under these circumstances, this Court finds that the revision petitioner, despite having sufficient means, has refused to maintain his wife. Therefore, there is no perversity in the order passed by the Family Court and there is no merit in the revision. This Court does not find any reason to interfere with the order passed by the Family Court, Coimbatore in M.C.No.162 of 2006 dated 25.03.2011.

10. Under these circumstances, the respondent is entitled to get maintenance from the petitioner. The petitioner is directed to deposit the entire arrears of maintenance, less Rs.70,000/- already deposited vide order of this Court while granting interim stay and he is directed to pay the remaining arrears of amount within a period of four weeks from the date of receipt of a copy of this order. Further, the petitioner is directed to pay the monthly maintenance regularly which was ordered by the Family Court to the respondent on or before every 5th day of English Calendar month without any default.

11. In the result, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

1. The Judge
The Family Court, Coimbatore.

2. The Additional Subordinate Judge
Tiruppur.

+1 CC to Mr.Ma.P.Thangavel, Advocate sr 51822.

+1 CC to Mr.L.Mouli, Advocate sr 51507.

Cr1.R.C.No.137 of 2012
and
M.P.No.1 of 2012

VGI (CO)
SP(28/06/2019)