

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

1. CrI.R.C.No.566 of 2012 and
M.P.No.1 of 2012

N.Syed Sabjaan @ Syed Fazil Ahmed ...Petitioner/Respondent

Vs.

1. M.A.Baseera Bagum @ Dulari Begum
2. S.B.Mohamed MohinudeenRespondents/Petitioners

This Criminal Revision case is filed under Section 397 read with Section 401 of Cr.P.C. to set aside the order dated 27.01.2012 made in M.C.No.491 of 2010 on the file of the I Additional Family Court, Chennai.

For Petitioner : No Appearance

For Respondents : No Appearance

सत्यमेव जयते
O R D E R

This criminal revision has been filed to set aside the order of maintenance granted by the learned Additional Principal Judge, I Additional Family Court, Chennai, in favour of the respondents in M.C.No.491 of 2010 dated 27.01.2012.

2 When the matter was listed on 05.08.2019, there was no representation on behalf of the petitioner and hence in order to give one more opportunity, the matter was directed to be listed on 08.08.2019. Even today (08.08.2019), when the matter is called for hearing, there was no representation on either side. Since the matter is pending from the year 2012 without any progress and the learned counsel appearing for the petitioner

did not appear before this Court and argue the matter on merit and also the revision is against only an order of maintenance, this Court is inclined to dispose of the revision on merit and gone through the materials on record.

3 It is seen from the records that the petitioner is husband, 1st respondent is wife and 2nd respondent is minor child. The marriage between the petitioner and the first respondent was solemnized on 15.11.2010 and 2nd respondent was born out of their wedlock. The revision petitioner/husband is a B.Tech graduate and doing job in Dubai and earning 8500 dollars and Ex.P6 has been filed to prove the income of the revision petitioner/husband. According to the revision petitioner/husband, the first respondent/wife has left the matrimonial home without any valid reason and now the petitioner is unemployed and not earning money and hence he could not pay the amount as ordered by the learned I Additional Principal Judge. It is the contention of the first respondent/wife that taking advantage of the fact that the petitioner/husband is a B.Tech graduate and working in Dubai, he demanded Rs.2,00,000/- to open a shop at Dubai and since the first respondent/wife could not pay the amount, he caused mental as well as physical cruelty and therefore she left the matrimonial home and living with her parents along with the second respondent/son and filed this maintenance case under Section 125 of Cr.P.C seeking maintenance. The first respondent/wife was examined as P.W.1 and the petitioner examined himself as R.W.1 and he has not denied the graduation and the avocation and quantum of income alone is disputed. It is seen that relationship of the parties and paternity of the child is not in dispute. It is settled proposition of law that when the wife and children are living separately and they have no means to maintain themselves, the husband is libale to maintain them. In the present case, it is admitted that the respondents are living separately and the petitioner, being a B.Tech graduate, as per Ex.P6, he was earning 8500 Dollars and the Family Court, after considering the facts and circumstances of the case, has awarded Rs.6,000/- as maintenance to the first respondent/wife and Rs.3,000/- to the second respondent/son. The petitioner/husband has challenged the above order of maintenance in the present criminal revision case. On reading of the entire materials and the order passed by the learned I Additional Principal Judge, this Court does not find any perversity and the same does not call for any interference of this Court.

4 In the result, the criminal revision case is dismissed and the order of maintenance granted by the learned I Additional Principal Judge, I Additional Family Court, Chennai, is hereby confirmed. The petitioner/husband is directed to pay entire

arrears of maintenance immediately to the first respondent/wife without any further delay. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

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

Cr1.R.C.No.566 of 2012 and
M.P.No.1 of 2012

VGI (CO)
CB(09/10/2019)



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