

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.673 of 2012

and

M.P.No.1 of 2012

Sellamuthu

...Petitioner

-Vs-

Kaliammal

...Respondent

This Criminal Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order of the learned Judicial Magistrate-1, Sankari dated 19.03.2012 passed in M.C.No.14 of 2010.

For Petitioner : Ms.J.Anu

For Mr.T.L.Thirumalaisamy

For Respondent : Mr.G.Muthukumar

O R D E R

This Criminal Revision has been filed by the petitioner to set aside the order of the learned Judicial Magistrate-1, Sankari dated 19.03.2012 passed in M.C.No.14 of 2010.

2. The revision petitioner is the husband and the respondent is the wife. The respondent has filed a petition before the learned Judicial Magistrate-1, Sankari, under Section 125 Cr.P.C., praying interim maintenance, which was taken on file in M.C.No.14 of 2010. The trial Court, after adverting to the materials placed on record and after hearing both the parties, allowed the petition and the petitioner was directed to pay a sum of Rs.2,000/- to the respondent. 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 had illegal intimacy with one Kuppasamy and she left the matrimonial home and now she is living with him. Hence, she is not entitled to get any maintenance under Section 125 Cr.P.C. The respondent filed a

petition before the Subordinate Court, Tiruchengode in H.M.O.P.No.43 of 2009 for dissolution of marriage on the ground of cruelty and the same was allowed. The petitioner is always ready to re-union with his wife and he tried to settle the issue. The learned Judicial Magistrate failed to consider all these aspects and ordered a sum of Rs.2,000/- per month to the respondent for maintenance, which warrants interference.

4. Heard the learned counsel appearing for the petitioner and perused the materials placed on record. There is no representation on behalf of the respondent.

5. 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 in the year 1990. The revision petitioner has examined before the trial Court as R.W.1. During the cross examination, he himself admitted that his brother is no more, his brother's wife is living in housing board. Despite the petitioner is having separate house, he stayed with his brother's wife. That is why the respondent/wife left the matrimonial home. This Court finds that the respondent has sufficient reason to leave the matrimonial home and also refused to live with her husband, that is the reason why the learned Magistrate directed the revision petitioner to pay the maintenance to the respondent herein.

6. Considering the cost of living prevailing as on date, the order of the learned Judicial Magistrate is reasonable. On reading of the entire materials, the revision petitioner despite having sufficient means, has refused to maintain her wife. The respondent has no means to maintain her.

7. This Court does not find any perversity in the order passed by the learned Judicial Magistrate-1, Sankari and there is no merit in the revision and this Court does not find any valid reason to interfere with the order passed by the learned Judicial Magistrate-1, Sankari in M.C.No.14 of 2010, dated 19.03.2012.

8. Under these circumstances, the respondent is entitled to get maintenance from the petitioner. The petitioner is directed to deposit the entire arrears of maintenance 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 learned Judicial Magistrate to the respondent on or before every 5th day of English Calender month without any default.

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

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

rli

To

The Judicial Magistrate-1,
Sankari.

+1 cc to Mr.T.L.Thirumalaisamy, Advocate, S.R.No.55228

Cr1.R.C.No.673 of 2012
and
M.P.No.1 of 2012

BS (CO)
SSM(05/07/2019)



WEB COPY