

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.R.C.No.861 of 2012 and
M.P.Nos.1 & 2 of 2012

S.Mohideen Sheriff

...Petitioner

-Vs-

Sabira Begum

...Respondent

This Criminal Revision case is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 06.09.2011 made in M.C.No.6 of 2008 on the file of the learned Judicial Magistrate No.1, Kancheepuram.

For Petitioner : Mr.A.Ajimath begam

For Respondent : Mr.R.Mubarak Basha

O R D E R

This criminal revision case has been filed seeking to set aside the order of maintenance dated 06.09.2011 in M.C.No.6 of 2008 by the learned Judicial Magistrate No.1, Kancheepuram.

2 The petitioner is husband and respondent is wife. The respondent/wife has filed a case under Section 125 of Cr.P.C. seeking maintenance in M.C.No.6 of 2008 before the learned Judicial Magistrate No.1, Kancheepuram. The learned Magistrate, after hearing both the counsel and after perusing the materials, by order dated 06.09.2011, awarded maintenance at Rs.1000/- p.m. Aggrieved against the order of maintenance, the husband is before this Court with the present criminal revision case.

3 According to learned counsel appearing for the petitioner/husband, the petitioner is a retired and aged person and he is receiving his pension, out of which, he has to take of his first wife, who is bedridden. The revision petitioner/husband is struggling even for maintaining himself. Knowing fully all the above aspects, the respondent has married the petitioner and has left the matrimonial home without any

valid reason. The petitioner, being an aged person, is struggling to maintain himself and his first wife, who is bedridden. Therefore, the award of maintenance granted by the trial Court is on higher side and the petitioner is not liable to pay any maintenance to the respondent wife.

4 According to learned counsel appearing for the respondent/ wife, the respondent/wife has no means to maintain herself and the petitioner/husband has married another woman thirdly, after the respondent left the matrimonial home. Therefore, he has sufficient means and is neglecting the respondent, who has no means to maintain herself. Further the learned Magistrate has awarded only Rs.1000/- as maintenance and in fact, the wife has filed revision seeking enhancement. Therefore, the present revision filed by the husband is liable to be dismissed.

5 Heard the learned counsel appearing on either side and perused the materials available on record.

6 It is seen that relationship of the parties is not in dispute and the respondent left the matrimonial home and living separately is also not in dispute. The learned Magistrate, after considering the arguments advanced on either side, had awarded Rs.1,000/- as maintenance. Considering the cost of living prevails as on date, this Court does not find any perversity in the order passed by the learned Magistrate.

7 In the result, the criminal revision case is dismissed as devoid of merit and substance. The petitioner/husband is directed to pay entire arrears of maintenance within a period of one month from the date of receipt of a copy of this order. It is brought to the notice of this Court that the respondent/wife has filed revision seeking enhancement and the same is pending. Hence it is made clear that the Court, where the revision filed by the respondent/wife seeking enhancement of maintenance is pending, is directed to dispose of the same without influencing any of the observations made in the present order.

Sd/-

Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.1,
Kancheepuram.

2. The chief Judicial Magistrate,
Kancheepuram. (Communicate to the Concern Court)

+1cc to Mr.R.Mubarak Basha, Advocate, S.R.No.66802

Cr1.R.C.No.861 of 2012

SS (CO)

RRS (13/08/2019)



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