

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.191 of 2018 and
CrI.M.P.No.1702 of 2018

M.Tamilarasan

...Petitioner

Vs

Yamuna

...Respondent

PRAYER: Criminal Revision Case filed under Article 397 r/w 401 of Criminal Procedure Code to set aside the order passed in M.C.No.555 of 2012, dated 25.04.2017 on the file of the II Additional Family Court at Chennai.

For Petitioner : Mr.P.A.Sudesh Kumar

For Respondent : Mr.R.Arun Kumar

O R D E R

This Criminal Revision case has been filed by the petitioner under Section 397 r/w 401 of Cr.P.C. to set aside the order passed in M.C.No.555 of 2012, dated 25.04.2017 on the file of the II Additional Family Court at Chennai.

2. The petitioner is the husband and the respondent is the wife. The marriage between the petitioner and the respondent was solemnized on 07.11.2011 at Thiruppathur, as per the Hindu Rites and Customs. After the marriage they lived together in the matrimonial home, subsequent to that, difference of opinion arose between them. Due to the misunderstanding the respondent was sent out from the matrimonial home.

3. Thereafter, the petitioner herein filed a petition for Divorce. Subsequently, the respondent filed a petition before the learned II Additional Principal Judge, Chennai in M.C.No.555 of 2012, which was partly allowed and directed the petitioner herein to pay a sum of Rs.4000/- per month for the maintenance of the respondent, against which the petitioner filed a present Criminal Revision Petition.

4. Heard, Mr.P.A.SudeshKumar learned counsel appearing for the petitioner and Mr.R.ArunKumar, learned counsel appearing for the respondent herein.

5. The learned counsel for the petitioner would submit that the respondent herein has known that the petitioner already got married one girl namely Mrs.Thilagavathy and gave birth to one child through her. Hence, the petitioner voluntarily left the matrimonial home and got divorce for the reasons of impotency and hence she is not entitled for maintenance by capitalizing her own fault and that the reluctant wife is not entitled to get premium for her reluctance. Since, the respondent is the B.Com., graduate and she is working in a private company and she is also having capacity to earn and she can take care of her child, the petitioner prays to allow this petition.

6. The learned counsel appearing on behalf of the respondent would submit that the marriage between the petitioner and the respondent was admitted herein. The respondent was living with the petitioner only for a short period of six months and thereafter, she was driven out of the matrimonial house by the petitioner herein. He further states that as a faithful and dutiful wife she has got every right to claim maintenance from her husband and there is no justification whatsoever for her having been driven out of the matrimonial home and living separately. Accordingly, prays for dismissal of this Revision.

7. On a perusal of the records, respondent has not proved despite having means petitioner/husband neglected or refused to maintain the respondent, since she is unable to maintain herself. Further she is living separately with sufficient reason. In the absence of the same, she is not entitled to get maintenance from her husband/petitioner.

8. Considering the above submissions made on either side, this Court is inclined to set aside the order passed by the II Additional Family Court, Chennai, in M.C.No.555 of 2012, dated 25.04.2017. Accordingly, this Criminal Revision Petition is allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

sbn

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

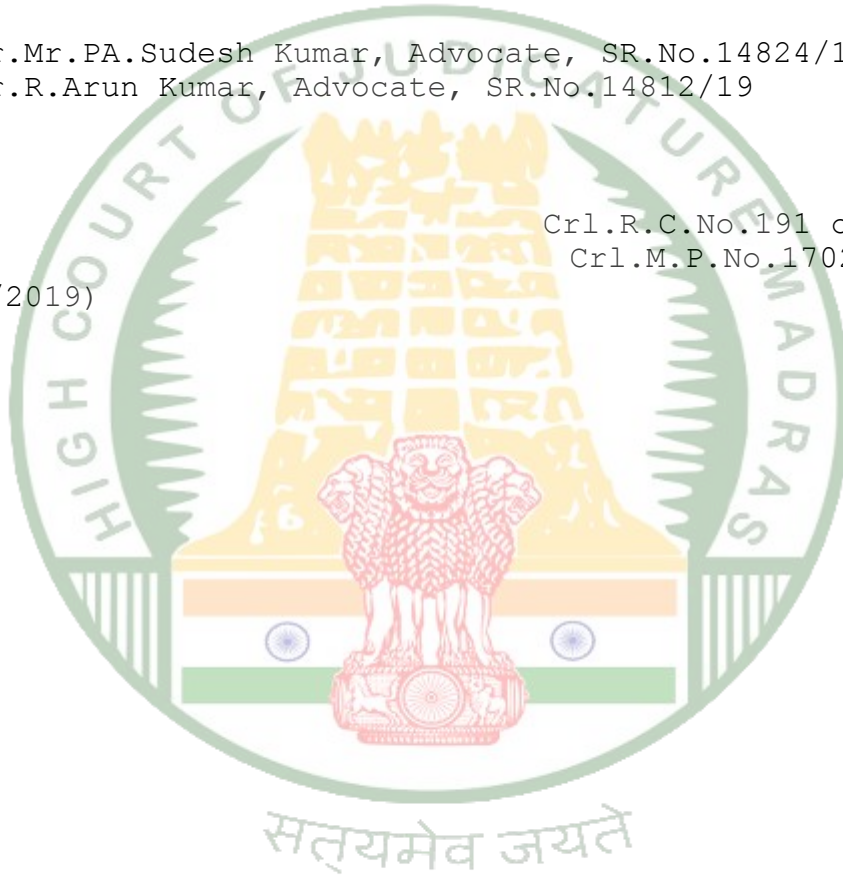
2. The Section Officer,
Criminal Section,
High Court, Madras - 104.

+1cc to Mr. Mr. PA. Sudesh Kumar, Advocate, SR.No.14824/19

+2cc to Mr. R. Arun Kumar, Advocate, SR.No.14812/19

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Kak(04/04/2019)



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