

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NOS.240 AND 635 OF 2018

Crl.R.C.No.240 of 2018:

1. E.Varalakshmi
2. E.Shunmugasundar
3. Minor E.Premi

...Petitioners

Versus

Elankeswaran

...Respondent

The Criminal Revision filed under Section 397 read with Sections 401 of Code of Criminal Procedure to set aside the order dated 01.11.2017 in M.C.No.366 of 2007 on the file of the learned IV Additional Family Court, Chennai.

For Petitioners : Mr.V.Kannan

For Respondent : Mr.R.Dhanasekar

Crl.RC.No.635 of 2018:

Elankeswaran

...Petitioner

Versus

1. E.Varalakshmi
2. E.Shunmugasundar
3. Minor E.Premi

...Respondents

The Criminal Revision filed under Section 397 read with Sections 401 of Code of Criminal Procedure to call for the records in M.C.No.366 of 2007 dated 01.11.2017 on the file of the learned IV Additional Family Court, Chennai.

For Petitioners : Mr.R.Dhanasekar

For Respondent : Mr.V.Kannan

COMMON ORDER

Crl.RC.No.240 of 2018 has been filed by the wife and children in M.C.No.366 of 2007 and they challenges the order passed in M.C.No.366 of 2007 dated 01.11.2007 whereby the respondent was directed to pay maintenance of Rs.1,000/- per month as maintenance to each petitioner totaling to a sum of Rs.3000/- from the date of petition viz. 25.07.2007 with increase of Rs.500/- once in two years to the petitioners.

2. Crl.RC.No.635 of 2018 has been filed by the husband against the order in M.C.No.366 of 2007 dated 01.11.2007 on the file of the learned learned IV Additional Family Court, Chennai, whereby the respondent was directed to pay maintenance of Rs.1,000/- per month as maintenance to each petitioner totaling to a sum of Rs.3000/- from the date of petition viz. 25.07.2007 with increase of Rs.500/- once in two years to the petitioner.

3. The marriage between the first petitioner and respondent in Crl.RC.No.240 of 2018 took place on 26.10.1995. After the marriage, the spouses were living together. Out of the wedlock, second and third petitioner in the above revision petition were born. Thereafter, difference of opinion arose between them. It is the contention of the husband that the wife deserted him without any valid reason. According to the wife, due to cruelty caused by the husband, she left from the matrimonial home with her children. Therefore, she filed a petition under Section 125 of Cr.P.C., claiming maintenance before the learned IV Additional Judge, Family Court, Chennai in M.C.No.366 of 2007. After an elaborate enquiry, the learned Judge directed the respondent/husband to pay a sum of Rs.1,000/- per month as maintenance to each petitioner totaling to a sum of Rs.3000/- from the date of petition viz. 25.07.2007 with increase of Rs.500/- once in two years to the petitioners. The second petitioner is entitled to receive maintenance only till 22.07.2014.

4. Challenging the same, the present two revisions have been filed as mentioned above. For the sake of convenience, the parties are referred as per their relationship.

5. The learned counsel appearing for the wife would contend that her husband is working as MTC Bus driver. At that time of filing the maintenance case, he was receiving salary only Rs.12,000/-. Now he got salary of Rs.25,000/- per month. The wife has no income to maintain herself and her children. According to the learned counsel, the amount of maintenance ordered by the learned Family Court is very low and therefore, the same warrants interference.

6. The learned counsel appearing for the husband would submit that he is working as driver and he is not doing any other work and he is not getting any rental amount. Out of which, he has to take care of his aged mother. The wife has deserted him without any valid reason and she wanted to live with her parents. She is an LIC Agent and earning monthly income of Rs.20,000/- Hence, she is not entitled to claim any maintenance. The wife left the matrimonial home without any valid reason. Therefore, the learned counsel prays this court to set aside the order passed by the Family Court.

7. Heard the learned counsel appearing for the husband and wife and perused the materials available on record.

8. There is no materials to show that the wife has deserted the husband without any valid reason. The contention raised by the learned counsel for the husband is rejected. The relationship of the parties are not in dispute and the marriage is not in dispute and the paternity of the children are also not in dispute. Only dispute is according to the husband, the wife left the matrimonial home without any valid reason. According to the wife, due to cruelty caused by the husband, she left from the matrimonial home.

9. On a perusal of records, it is seen that the learned Family Court, Chennai has directed the respondent/husband to pay a sum of Rs.1,000/- per month as maintenance to each petitioner totaling to a sum of Rs.3000/- from the date of petition viz. 25.07.2007 with increase of Rs.500/- once in two years to the petitioners. The second petitioner is entitled to receive maintenance only till 22.07.2014.

10. This Court is of the opinion that the award passed by the Family Court is reasonable and the husband could be directed to pay as directed by the Family Court as monthly maintenance. This Court does not find any justifiable reason to interfere with the order impugned in these revision petitions.

11. In the result, both the Criminal Revision Cases are dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rli

To

The IV Additional Judge,
Family Court at Chennai.

+2cc to Mr.R.Dhanasekar, Advocate, S.R.No.38323 & 38324

+2cc to Mr.V.Kannan, Advocate, S.R.No.38066 & 38065

Crl.R.C.Nos.240 and
635 of 2018

NMI (CO)
CS/28/11/2019