

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1390 of 2013

and

M.P.No.1 of 2013

S.Panneer Selvam

...Petitioner

-Vs-

V.Nirmala

...Respondent

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. against the judgment passed by the learned VI Additional Sessions Court at Chennai in C.A.No.126 of 2012 dated 20.01.2012, confirming the common order passed by the learned V Metropolitan Magistrate, Egmore, Chennai in M.P.No.749 of 2011 in C.C.No.259 of 2011.

For Petitioner : Mr.Balakrishnan

For Respondent : Mr.S.Kingston Gerold

O R D E R

This Criminal Revision has been filed by the petitioner against the judgment passed by the learned VI Additional Sessions Court at Chennai in C.A.No.126 of 2012 dated 20.01.2012, confirming the order passed by the learned V Metropolitan Magistrate, Egmore, Chennai in M.P.No.749 of 2011 in C.C.No.259 of 2011.

2. The revision petitioner is the husband and the respondent is the wife. The respondent has filed a case against the petitioner before the learned V Metropolitan Magistrate, Egmore, under Section 125 Cr.P.C., which was taken on file in C.C.No.259 of 2011. During the pendency of the C.C., the respondent has filed the miscellaneous petitions in M.P.No.749 to 752 of 2011 in C.C.No.259 of 2010. The trial Court, after advertng to the materials placed on record and after hearing the arguments of both sides, directed the petitioner to pay a sum of Rs.10,000/- per month towards maintenance to the respondent/wife. As against the same, the revision petitioner/husband has filed appeal in C.A.No.126 of 2011 before the learned VI Additional Sessions

Court, Chennai. The learned VI Additional Sessions Court, after enquiry, dismissed the appeal and the appellant was directed to pay a sum of Rs.10,000/- per month to the respondent towards maintenance, till the disposal of the main application.

3. Challenging the said judgment passed in C.A.No.126 of 2011 dated 20.01.2012, the petitioner has filed the present revision before this Court.

4. The learned counsel for the petitioner/husband would submit that now the respondent/wife is practicing as an Additional Public Prosecutor and she has sufficient means to maintain herself and children. Hence, she is not entitled to get any maintenance from the husband. The respondent filed a petition in O.P.No.4193 of 2010 before the Family Court, Chennai for restitution of conjugal rights and the same is pending. Both the Courts below have failed to consider all these aspects and awarded a sum of Rs.10,000/- per month to the respondent as maintenance, which warrants interference.

5. The learned counsel for the respondent would submit that now she is practicing as an Additional Public Prosecutor. At that time of filing the maintenance case, she was practicing as Junior Advocate, she had no means to maintain themselves and it was very difficult to lead the life as practicing Advocate without any means. Out of the wedlock between the petitioner and the respondent, two children were born. The petitioner is running a petrol Bunk and earning sufficient money. But despite having sufficient means, he has neglected to maintain his wife and children. Therefore, the Family Court has rightly observed the same and awarded a sum of Rs.10,000/-per month to the respondent, which does not warrants any interference.

6. Heard the learned counsel appearing for the petitioner as well as the respondent and perused the materials placed on record.

7. 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 on 09.07.2001. Out of the wedlock, two male children were born. The marriage between the petitioner and the respondent is not in dispute and the relationship is not in dispute and paternity of the children is also not in dispute. Due to misunderstanding, they are living separately.

8. Admittedly the petitioner is running a petrol Bunk and earning sufficient income. Therefore, the order passed by the learned VI Additional Session Judge in C.A.No.126 of 2011 does not warrant any interference. The learned counsel for the

respondent has also fairly conceded that the respondent is practicing as an Additional Public Prosecutor.

9. Considering the cost of living prevailing as on date and the educational expenses of the children, the respondent expects some financial help from the husband/petitioner. However, the order passed by the learned VI Additional Sessions Judge, is only an interim order and the main case is pending.

10. This Court does not find any perversity in the judgment passed by the learned VI Additional Sessions Judge, Chennai and there is no merit in the revision and this Court does not find any valid reason to interfere with the judgment passed by the learned VI Additional Sessions Judge, Chennai in C.A.No.126 of 2011, dated 20.01.2012.

11. 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 one month 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 VI Additional Sessions Judge, Chennai to the respondent on or before every 5th day of English Calendar month without any default.

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

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The VI Additional Sessions Judge, Chennai.
- 2.The V Metropolitan Magistrate, Egmore, Chennai
- 3.The Public Prosecutor, High Court, Madras - 104.

Copy to :

The Section Officer,
Criminal Section,
High Court, Madras

+1cc to Mr.M.V.Balakrishnan , Advocate SR.No. 96567

+1cc to Mr.S.Kingston , Advocate SR.No. 69849

CrI.R.C.No.1390 of 2013
and

M.P.No.1 of 2013

A.SK(04/02/2020)