

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.661 of 2013

K.Maheshbabu

.. Petitioner

- Vs -

1. M.Karpagam @ Gayathri

2. Minor Sanjana
rep. by her mother M.Karpagam @ Gayathri ... Respondents

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to set aside the order dated 13.02.2013 passed in MC.No.19 of 2007 on the file of the Family Court, Salem.

For Petitioner : Mr.K.Vijayaraghavan

For Respondents: Mr.R.Ganesh Kumar

O R D E R

This Criminal Revision case has been filed to set aside the order dated 13.02.2013 passed in MC.No.19 of 2007 by the learned Family Court Judge, Salem.

2. The revision petitioner is the husband, the first respondent is the wife and the second respondent is the minor daughter of the petitioner and the first respondent. The marriage between the petitioner and the first respondent was solemnised as per the Hindu rites and customs on 26.08.2004 at Salem. At the time of the marriage, the revision petitioner is working as Junior Engineer in the office of STE, Chennai and after the marriage, the petitioner and the first respondent are living together in a rented house at Kolathur, Chennai. During their wedlock, they blessed with a female child viz., the second respondent. Soon after the marriage, there was misunderstanding between the petitioner and the first respondent. The first respondent went to her parental house for delivery and thereafter, she never turned to the matrimonial home. Despite the petitioner taken efforts to bring back the first respondent

to the house of the petitioner, his all attempts went on vain. Now they are living separately. During the year 2007, the first respondent filed a petition under Section 125 of Cr.P.C in MC.No.19 of 2007 before the Family Court, Salem for maintenance. The learned Family Court Judge, after elaborate enquiry, dismissed the case as against the first respondent/wife and awarded the compensation of a sum of Rs.3,000/- per month to the second respondent/daughter from the date of filing of the petition to July 2012 and Rs.6,000/- per month from August 2012 to till her marriage and also to pay the education expenses to the second respondent and with the cost of Rs.10,000/- towards legal expenses to the first respondent, by order dated 13.02.2013. Challenging the said order of the Family Court Judge, the husband has filed the present revision before this Court.

3. The learned counsel for the petitioner would submit that there was a dispute between the petitioner and the first respondent from the date of marriage. Soon after the marriage, when the first respondent came to the matrimonial house and living with the petitioner in a rented house at Kolathur, she insisted the petitioner to bring her parents and family members to Chennai to reside along with them and the petitioner refused for the same. She also insisted that all the salary will be given to her, for which also, he refused. When she was pregnant of fourth month, the father of the first respondent came to the house and informed the petitioner to take his daughter to his house. As per the custom in the community, a pregnant woman should not go to her parents house in any even month of pregnancy and hence, the petitioner refused to send her along with her father. Thereafter, the first respondent went along with her father in the next month and she never turned to the revision petitioner. Since the father of the first respondent scolded and ill treated the petitioner, he did not go to the first respondent's parents home, whereas, he sent correspondents. Despite sending several letters, the first respondent did not respond and she lived in her parental home. Even the telegram and other mode of telephonic communication, she did not respond. The first respondent left the matrimonial home and got separated without any valid reason and therefore, she is not entitled to get maintenance under Section 125 of Cr.P.C. The learned Family Court Judge rightly accepted the contention of the petitioner and dismissed the case against the first respondent/wife, however, awarded the compensation of a sum of Rs.3,000/- per month to the second respondent/daughter from the date of filing of the petition to July 2012 and Rs.6,000/- per month from August 2012 to till her marriage and also to pay the education expenses to the second respondent and with the cost of Rs.10,000/- towards legal expenses to the first respondent. The earning of the petitioner itself is only

Rs.8,417/- at the time of filing this petition, out of which, he cannot pay the said amount every month. The Family Court Judge failed to consider the income of the petitioner and therefore, the order of the Family Court Judge warrants interference.

4. The learned counsel for the respondent would submit that the Family Court Judge dismissed the case as against the first respondent/wife and awarded the compensation of Rs.3,000/- per month to the second respondent/daughter from the date of filing of the petition till July 2012 and Rs.6,000/- per month from August 2012 till her marriage and also to pay the education expenses to the second respondent and with the cost of Rs.10,000/- towards legal expenses to the first respondent/wife. The order of the Family Court Judge is very reasonable. Further, Ex.P22 shows that the pay band of the petitioner is Rs.9,300-34,800/- and in the month of July 2012, in which, the petitioner was drawing gross total amount of Rs.40,470/- recovery Rs.5,655/-, net pay Rs.34,815/- and pay for the month of June 2012 in which, he was drawing gross total Rs.39,359/- recovery Rs.5,655/- net payable Rs.33,704/-, Considering the income of the petitioner, the Family Court Judge awarded only Rs.3,000/- per month to the second respondent/daughter from the date of filing of the petitioner till July 2012 and Rs.6,000/- per month from August 2012 till her marriage and also to pay the education expenses to the second respondent and with the cost of Rs.10,000/- towards legal expenses to the first respondent and therefore, the order of the Family Court warrants no interference.

5. Heard the learned counsel for the revision petitioner and the learned counsel for the respondents and also perused the entire materials available on record.

6. There is no dispute with reference to the relationship between the parties and also the paternity of the second respondent. Due to misunderstanding between the petitioner and the first respondent, the respondents are living separately. The petitioner proved that the first respondent is working as a Teacher in a Private School and she was earning Rs.6,500/- and hence, the Family Court Judge dismissed the maintenance case as against the first respondent/wife and awarded the compensation of a sum of Rs.3,000/- per month to the second respondent/daughter from the date of filing of the petition to July 2012 and thereafter, Rs.6,000/- per month from August 2012 to till her marriage and also to pay the education expenses to the second respondent herein and with the cost of Rs.10,000/- towards legal expenses to the first respondent/wife. This Court does not find any perversity in the order passed by the Family Court. There is no merit in this revision and the same is liable to be dismissed.

7. Accordingly, this Criminal Revision Case is dismissed. The order dated 13.02.2013 in MC.No.19 of 2007 passed by the learned Family Court Judge, Salem, is hereby confirmed. The revision petitioner is directed to deposit the entire arrears of maintenance from the date of filing the maintenance case till today into the Court below. The revision petitioner is also directed to pay the monthly maintenance amount of Rs.6,000/-per month to the second respondent as directed by the Court below.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

KMI

To
The Judge, Family Court, Salem.

Copy To
The Section Officer,
Criminal Section, High Court, Madras.

+1cc to Mr.R.Ganesh Kumar, Advocate SR.No.72861

+1cc to Mr.K.Vijayaraghavan, Advocate SR.No.73909

Cr1.R.C.No.661 of 2013

SPD (CO)
GMY (25/10/2019)

सत्यमेव जयते
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