

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.774 of 2013
and
Crl.M.P.No.1 and 2 of 2013

M.K.Sheik Amir

...Petitioner

Vs.

Z.Zeenath Zubaidha

...Respondent

The Criminal Revision case has been filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the order dated 12.02.2013 in M.C.No.01 of 2009, passed by the learned Judicial Magistrate-I, Puducherry.

For Petitioner : Mr.K.Karunakaran

For Respondent : Mr.Ashokpathy for
M/s.Pass Associates

O R D E R

This Criminal Revision has been filed to set aside the order dated 12.02.2013 in M.C.No.01 of 2009, passed by the learned Judicial Magistrate-I, Puducherry.

2. The revision petitioner is the husband and the respondent is the wife. The marriage between the petitioner and the respondent was solemnized on 27.01.2008 as per Islamic Rites, Customs and tradition. After marriage, the petitioner left to Singapore, leaving behind the respondent in India. Due to misunderstanding, the respondent left the matrimonial home and was living with her parental home. Thereafter, she filed a case under Section 200 Cr.P.C. read with Section 3 of Muslim Women (Protection of Rights on Divorce) Act 1986 before the learned Judicial Magistrate-I, Puducherry, which was taken on file in M.C.No.01 of 2009. After enquiry, the learned Judicial Magistrate directed the petitioner to pay a sum of Rs.25,000/- per month or Rs.25,00,000/- towards lump sum compensation to his wife for maintenance.

3. Challenging the said order passed by the learned Magistrate in M.C.No.01 of 2009, dated 12.02.2013, the petitioner/husband has filed the present revision before this Court.

4. The learned counsel for the petitioner would submit that the respondent suppressed the material fact that she is not even fit for having physical relationship and also she got remarried on 17.11.2013. Hence, she is not entitled to get any maintenance from the petitioner. The petitioner is earning a sum of Rs.85,000/- per month, out of which, he has to take care of his aged parents, second wife and three children, born through the second wife. Therefore, he is not in a position to pay a sum of Rs.25,000/- per month to the respondent as monthly maintenance, which warrants interference.

5. The learned counsel for the respondent/wife would submit that there is no material to prove that the respondent/wife is not capable of having physical relationship. While the petitioner was in Singapore and Bangalore, the petitioner and his parents caused various act of cruelty and mental torture. At the time of filing the case, the petitioner was working in Singapore and was earning a handsome salary. But, during trial, he has not produced any document to prove his income. During the cross examination, the petitioner himself admitted that he was working in Singapore as Software Engineer and he has purposefully not produced the salary certificate. Despite having sufficient means, he neglected to maintain his wife. Therefore, the award passed by the learned Judicial Magistrate is reasonable and does not warrant any interference.

6. Heard the learned counsel for the petitioner and the respondent. Perused the materials available on record.

7. A careful perusal of the entire records and the impugned order, would go to show seen that there is no dispute with regard to the marriage and relationship of the parties.

8. The respondent has denied the second marriage. On a reading of the entire materials, it is seen that the petitioner herein was working in Singapore as Software Engineer. He has wantonly not produced the salary certificate. Considering the present day cost of living, the order passed by the learned Magistrate is not excessive. This Court does not find any perversity in the order passed by the Magistrate and there is no merit in the revision.

9. In the result, this Criminal Revision Case is dismissed. The petitioner is directed to pay the maintenance amount as ordered by the learned Judicial Magistrate-I, Puducherry by order dated 12.12.2013 to his former wife viz., respondent, till

17.11.2013, within a period of four weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rli

To

The Judicial Magistrate-I,
Puducherry.

+3cc to Mr.A.K.S.Thahir, Advocate, S.R.No. 70763 & 71311

CrI.R.C.No.774 of 2013

PA (CO)
GN (12/02/2020)



WEB COPY