

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.Nos. 1140 & 1141 of 2016
and
Crl.M.P.Nos.10004 &10005 of 2016

- 1.Dr.R.Charulatha
- 2.Minor Prajeeth Hari
- 3.Minor Pranav Hari

(Petitioners 2 & 3 rep.by
the 1st Petitioner The Mother
and Natural Guardian) ... Petitioners in both the cases

Versus

- 1.Prakash Arivazhagan
- 2.Arivazhagan
- 3.Suseela

... Respondents in both the cases

Common Prayer: Criminal Revision cases filed under Article 397 r/w 401 of Criminal Procedure Code, to set aside the order dated 22.07.2016 passed by the learned III Additional District and Sessions Judge, Cuddalore at Virudhachallam in C.A.No.28 of 2015, C.A.No.34 of 2015 and the order dated 26.03.2015 passed by the learned Special Judicial Magistrate, Additional Mahila Court at Cuddalore in M.C.No.06 of 2014.

For Petitioners : Mr.P.Baskar (In both the cases)

For Respondent : Mr.M.Prabhahar (In both the cases)

COMMON ORDER

The first petitioner is the wife of the first respondent, the second and third petitioners are the minor children of the first petitioner and the first respondent. The marriage between the first petitioner and the first respondent was solemnized on 28.01.2008, at Cuddalore, as per the Hindu Rites and Customs. Thereafter, they blessed with two children. Due to the difference of opinion arose between them, the first petitioner left the Matrimonial home along with the second and third

petitioners.

2. Thereafter, the petitioners filed a petition under Section 12 of the Protection of Women from Domestic Violence Act-2005, for the protection and also for the maintenance in M.C.No.6 of 2014 before the learned Special Judicial Magistrate Additional Mahila Court, Cuddalore. The first respondent/husband filed his counter in maintenance case. After the trial proceedings, the learned Judicial Magistrate, Additional Mahila Court, Cuddalore allowed the petition in part and awarded a sum of Rs.15,000/- per month to the second petitioner and Rs.5,000/- to the third petitioner towards the maintenance. As against the said order of the learned Special Judicial Magistrate, both the petitioners and the respondents had filed appeals before the III Additional District and Sessions Judge, Cuddalore at Virudhachalam in CrI.A.Nos.28 of 2015 and 34 of 2015 respectively. After hearing the arguments, the learned III Additional District and Sessions Judge, dismissed the petition filed by the first petitioner/wife herein i.e. C.A.No.28 of 2015 and also allowed the petition filed by the first respondent/husband in C.A.No.34 of 2015. As against the said judgments the petitioners filed a present Revision Case before this Court.

3. The learned counsel appearing on behalf of the petitioners would submit that, the first respondent is working in abroad, therefore the visitation rights was passed by the learned Judge is liable to be set aside and the maintenance award passed by the Magistrate is not sufficient, it should be increased. For the above said reasons, the learned counsel for the petitioners prays to allow this revision case in CrI.R.C.No.1140 of 2016 herein.

4. The learned Counsel appearing on behalf of the respondents would submit that though the lower Court has granted the visitation right to the first respondent for spending time with his children, but the first petitioner/wife has never obeyed the order of the Court. In this case, the first petitioner/wife left the Matrimonial Home along with the two minor children without any valid reason. Hence, there is no need to interfere with the order passed by the learned III Additional District and Sessions Judge, Cuddalore at Virudhachalam.

5. Heard both sides and perused the materials available on record.

6. Admittedly, there is no dispute with the relationship of the husband and wife and no dispute with regard to the paternity of the children. The learned Judge granted the visitation rights

to the first respondent, but the first petitioner refused to show the children to their father/ first respondent in CrI.R.C.No.1140 of 2016 herein. But he has not filed any revision case against the petitioners.

7. Considering the facts and circumstances of the case, this Court does not find any merits in these revision cases and this Court is not inclined to interfere with the order passed by the Courts below.

8. In the result, the Criminal Revision cases are dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

sbn/rli

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The III Additional District and Sessions Judge,
Cuddalore.
2. The Special Judicial Magistrate, Additional Mahila Court,
Cuddalore

+6CCs to M/s.M.Prabakar, Advocate, SR.No.16940 & 16941

CrI.R.C.Nos. 1140 & 1141 of 2016
and
CrI.M.P.Nos.10004 &10005 of 2016

Kak(08/05/2019)

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