

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 06.02.2019

CORAM:
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.629 of 2018 and
Crl.M.P.Nos.7385 of 2018

S.Bharath Kumar

...Petitioner

-Vs-

1. M.K.Anupriya
2. Minor B.Pranarubini
3. Minor B.Animithua
(Minors represented by their
mother i.e. 1st respondent) ...Respondents

This Criminal Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C. to call for records pertaining to the case in F.C.M.C.No.6 of 2017 on the file of the Family Court, Vellore and set aside the order dated 20.03.2018 passed in the above case.

For Petitioner : Mr.G.Janaki
for M/s.V.Pavel
For Respondents : Mr.K.S.Arivazhagan

ORDER

The petitioner is husband and 1st respondent is wife and 2nd and 3rd respondents are their children. The respondents have filed a petition under Section 125(1)(a)(b) of Cr.P.C. before the Family Court, Vellore, praying interim maintenance, which was taken on file in F.C.M.C.No.6 of 2017. The Family Court after adverting to the materials placed on record and after hearing both the parties, had awarded Rs.20,000/- pm to the first respondent and Rs.10,000/- to 2nd and 3rd respondents each by an order dated 20.03.2018, as against the same, the husband has filed this present revision before this Court.

2 Heard the learned counsel appearing on either side and perused the materials placed on record.

3 The petitioner has filed a petition for divorce in H.M.O.P.No.66 of 2016 before the Sub Court, Arni, which was transferred to Family Court, Vellore and re-numbered as F.C.O.P.No.215 of 2017, and the same was pending.

4 Admittedly, the petitioner has filed the petition seeking divorce, before filing of the present case under Section 125 of Cr.P.C. by the respondents. This Court is of the view that pending case for divorce, filing of petition under Section 125 will not arise, when there is an alternative remedy under Section 24 of the Hindu Marriage Act. The order dated 20.03.2018 made in F.C.M.C.No.6 of 2017 is hereby set aside and the petition in F.C.M.C.No.6 of 2017 under Section 125(1)(a)(b) of Cr.P.C. shall be treated as a petition under Section 24 of the Hindu Marriage Act and the Family Court is directed to dispose of the above petition afresh in accordance with law after converting the same into petition under Section 24 of the Hindu Marriage Act.

5 With the above directions, this criminal revision case is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

The Judge,
The Family Court, Vellore.

+1cc to Mr.K.S.Arivazhagan, Advocate, S.R.No.10089

+1cc to M/s.V.Pavel, Advocate, S.R.No.10088

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KJI (CO)

rrs 13/03/2019

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