

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NO.342 OF 2019

J.M.Nizamudeen

...Petitioner

-Vs-

1. N.Kousar Banu
2. N.Mysha (Minor)
3. N.Tanisha (Minor)
4. N.Rehanudeen (Minor)

...Respondents

This Criminal Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 24.01.2019 in M.C.No.163 of 2015 on the file of the learned V Additional Family Court Judge, Chennai.

For Petitioner : Mr.R.Nasrine

O R D E R

This Criminal Revision has been filed by the petitioner to set aside the order dated 24.01.2019 made in M.C.No.163 of 2015 on the file of the learned V Additional Family Court Judge, Chennai.

2. The revision petitioner is the husband and the respondents are wife and children. The respondents have filed the petition before the learned V Additional Principal Judge, Family Court, Chennai, under Section 125 Cr.P.C., praying maintenance, which was taken on file in M.C.No.163 of 2015. The Family Court after adverting to the materials placed on record and after hearing both the parties, partly allowed the petition and the respondent therein was directed to pay a sum of Rs.5,000/- to the first petitioner and to pay a sum of Rs.3,000/- to 2 to 4 petitioners each, in total Rs.14,000/- per month towards maintenance from the date of filing of the maintenance case. As against the same, the husband has filed this present revision before this Court.

3. The learned counsel for the revision petitioner/husband would submit that the first respondent/wife left the matrimonial

home without any valid reason. Hence, she is not entitled to get any maintenance under Section 125 Cr.P.C. The petitioner/husband has filed a suit in O.S.No.234 of 2015 for restitution of conjugal rights. Subsequently, it was dismissed. The first respondent always wanted to be in her parental house and she does not want to leave from there. After birth of the children, there were no changes in the attitude of the first respondent, she never performed her duty as a wife. Therefore, the learned counsel prays this Court to set aside the order passed by the Family Court.

4. Heard the learned counsel appearing on behalf of the petitioner and perused the materials placed on record.

5. It is admitted that the first respondent is the wife of the petitioner and the marriage between the petitioner and the first respondent was solemnized on 29.07.2007. Out of the wedlock, three children were born to them. After the marriage, the revision petitioner started to demand the dowry and also abused her in filthy language and assaulted her. Therefore, she left the matrimonial home. Though the husband filed the suit in O.S.No.234 of 2015 for restitution of conjugal rights and the same was dismissed. Therefore, as on date, the petitioner has not taken any steps to bring back his wife to the matrimonial home. The learned counsel for the petitioner submitted that the petitioner did not demand the dowry. However, in her written statement in O.S.No.234 of 2015, the first respondent submitted that after the marriage, the petitioner started to demand the dowry and assaulted her and abused her. Therefore, she left the matrimonial home. The first respondent/wife stated that the petitioner is well off in finance and he has sufficient means despite having sufficient mean he refused to maintain the wife and children. Therefore, the respondents have filed the petition for maintenance.

6. The marriage between the the petitioner and the first respondent was not in dispute and the paternity of the children is also not in dispute. Only dispute is according to the husband, the wife left the matrimonial home without any valid reason. According to the respondent, due to cruelty caused by the husband, she left from the matrimonial home. The petitioner has not taken any steps to bring back her in matrimonial home and has not filed any petition to secure the custody of the children, which shows that the revision petitioner neglected to maintain his wife and children.

7. Under these circumstances, the respondents are entitled to get maintenance from the petitioner. The Family Court directed the petitioner to pay a sum of Rs. 5,000/- to the first respondent and Rs.3,000/- to the 2 to 4 th respondent each

per month towards maintenance, it totally comes Rs.14,000/- which is not excessive. Considering the cost of living prevailing as on date, being a lady, the first respondent cannot take care of her children without any means. Hence, Rs.14,000/- is not an exorbitant.

8. With the above discussions, this criminal revision case is dismissed. The petitioner/husband is directed to continue to pay the monthly maintenance regularly without any default.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rli

To

The V Additional Judge,
Family Court,
Chennai.

+1cc to Mr.R.Nasrine, Advocate, S.R.No.31525

Cr1.R.C.No.342 of 2019

NMI (CO)
CS/28/11/2019



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