

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.843 of 2018,
Crl.M.P.No.9584 of 2018
and Crl.M.P.No.10888 of 2019

Venkatesan

..Petitioner

Vs.

Shoba @ Shoba Rani

..Respondent

Criminal Revision filed under Section 397 r/w 401 Cr.P.C., to set aside the order dated 04.05.2018 passed in M.C.No.2 of 2016 on the file of the Family Court, Thiruvallur.

For Petitioner : Mr.S.N.A.Hussainy

For Respondent : Mr.R.Rajesh

ORDER

This petition has been filed seeking to set aside the order dated 04.05.2018 passed in M.C.No.2 of 2016 on the file of the Family Court, Thiruvallur.

2. For the sake of convenience, the parties will be referred to by their name.

3. Shoba got married to Venkatesan on 05.02.2003 and within twelve days of marriage i.e., on 17.02.2003, a quarrel ensued between the two families, on account of which, the spouses got separated. Shoba filed M.C.No.2 of 2016 before the Family Court, Tiruvallur, under Section 125 Cr.P.C., claiming maintenance from Venkatesan. After the receipt of notice, Venkatesan entered appearance and contested the claim.

4. Shoba examined herself as PW1 and marked one exhibit. Venkatesan examined himself as RW1 and marked four exhibits.

5. After considering the evidence on record and hearing either side, the Family Court, Tiruvallur, by order dated 04.05.2018 has directed Venkatesan to pay a sum of Rs.5,000/- per month, towards maintenance to Shoba, aggrieved by which, Venkatesan is before this Court.

6. Heard Mr.S.N.A.Hussainy, learned counsel for Venkatesan and Mr.R.Rajesh, learned counsel for Shoba and carefully perused the records.

7. From the evidence on record, it is apparent that the couple stayed together hardly for twelve days; they got married on 05.02.2003 and got separated on 17.02.2003. Shoba filed

M.C.No.11 of 2004 for similar relief earlier and that was dismissed in 2007. Shoba lodged a police complaint against Venkatesan, on which, a case in All Women Police Station Crime No.2 of 2003 under Section 498-A IPC and Section 4 of the Dowry Prohibition Act, was registered against Venkatesan and his family members. The present petition in M.C.No.2 of 2016 under Section 125 Cr.P.C. is a second petition, in which, the Trial Court has passed the impugned order. During the pendency of these petitions, Venkatesan met with an accident and he has marked the treatment records as Exs-R3 and R4. It is his case that, he was employed in TVS Company and on account of criminal prosecution lodged by Shoba, he lost his job. That apart, in the road accident suffered by him, he lost a leg and a rod has been placed.

8. Per contra Mr.R.Rajesh, learned counsel for Shoba submitted that it is the duty of Venkatesan to pay maintenance and there cannot be an escape from it. It is further brought to the notice of this Court that in H.M.O.P.No.18 of 2014 that was filed by Venkatesan seeking divorce on the ground of cruelty, divorce has been granted by the Family Court, Tiruvallur.

9. On the conspectus of the facts obtaining in this case, this Court finds that Venkatesan has been subjected to untold miseries and his earning capacity has been impaired. He has now to take care of his widowed mother, who was also prosecuted along with him before the criminal Court under Section 498-A IPC and was ultimately acquitted.

10. In view of the above, this Court is of the view that interests of justice would be served if the maintenance amount is reduced from Rs.5,000/- per month to Rs.3,000/- per month.

In the result, this revision petition is partly allowed. The petitioner/Venkatesan shall pay a sum of Rs.3,000/- as maintenance to Shoba from the date of filing of M.C.No.2 of 2016 before the Family Court, Tiruvallur. If any amount has been paid towards arrears of maintenance, the same shall stand adjusted.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Judge, Family Court, Thiruvallur.

+1cc to Mr.S.N.A.Hussainy, Advocate SR.No.68260

+1cc to Mr.R.Rajesh, Advocate Sr.No.68214

akm/12.09.19/2p-4c/

Cr1.R.C.No.843 of 2018