

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.986 of 2018

J. Rajesh Kumar

... Petitioner

Vs

1. Kokila

2. Minor Hirathan Sai

... Respondents

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the order dated 16.07.2018 passed in M.C.No.30 of 2017 on the file of the learned Chief Judicial Magistrate, Tiruppur.

For Petitioner : Mr.D.Udhayasuriyan

For Respondents : Mr.S.Mukunth

For Sarvabhuman Associates

O R D E R

This Criminal Revision Case has been filed to set aside the order dated 16.07.2018 passed in M.C.No.30 of 2017 on the file of the learned Chief Judicial Magistrate, Tiruppur.

2. The revision petitioner is husband and the first respondent is wife and the second respondent is minor son. The marriage between the petitioner and the first respondent was solemnized on 28.11.2013 at Salem, as per the Hindu Rites and Customs. After the marriage, both of them were living together in a Matrimonial Home. Due to the difference of opinion, now the petitioner and the respondents are living separately.

3. The petitioner filed a petition for divorce before the Sub Court, Tambaram in H.M.O.P.No.556 of 2016. During the pendency of the case, the first respondent/wife has filed a petition for maintenance in M.C.No.30 of 2017 before the learned Chief Judicial Magistrate, Tiruppur under Section 125 Cr.P.C. After hearing the matter elaborately, the learned Judge allowed the petition and awarded a sum of Rs.15,000/- per month each for the 1st and 2nd respondents. Challenging the order passed by the learned Judicial Magistrate, Tiruppur, the petitioner/husband has filed the present revision before this Court.

4. Heard the learned counsel for the petitioner as well as the respondents and perused the materials available on record.

5. According to the petitioner, the first respondent left the matrimonial home on 13.08.2015 without any valid reason. The wife has filed the case for maintenance against the petitioner. The proceedings under section 125 Cr.P.C. itself is a summary procedure. The husband has filed the divorce petition, during the pendency of this petition, the wife shall file a petition under Section 24 of Hindu Marriage Act. The main object of Section 24 of the Hindu Marriage Act is to grant interim maintenance to the wife so that she can meet out the financial assistance during the pendency of the proceedings. During the pendency of matrimonial petition, the wife filed a petition under 125 Cr.P.C. is not maintainable. However, the respondent/wife has at liberty to file a petition under Section 24 of Hindu Marriage Act and get an interim maintenance.

6. With the above observation, this Criminal Revision Case is allowed by setting aside the order dated 16.07.2018 made in M.C.No.30 of 2017 by the learned Chief Judicial Magistrate, Tiruppur.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

rli

To

The Chief Judicial Magistrate,
Tiruppur.

Copy to

The Section Officer
Criminal Section
High Court, Madras 104.

+1 CC to Mr.S.Saravanan, Advocate sr 24570.

+1 CC to Mrs. Sarvabhuman Associates sr 23814

Cr1.R.C.No.986 of 2018

EV(CO)

SP(31/12/2019)