

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2019

CORAM

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Cr1.R.C. No. 381 of 2019
and
M.P.No.5581 OF 2019

F.Mansoor Ahamed

.. Petitioner

Vs.

Thasneem Jakier Hussain

... Respondent

Criminal Revision Case filed under Section 397 r/w.Sec.401 of Cr.P.C. against the order dated 13.02.2019 passed by the VII Additional Principal Judge, Family Court, Chennai in M.P.No.365 of 2018 in M.C.No.413 of 2017.

For Petitioner : Mr.V.Karnan

O R D E R

This criminal revision case arises against the order dated 13.02.2019, passed by the VII Additional Principal Judge, Family Court, Chennai, in M.P.No.365 of 2018 in M.C.No.413 of 2017.

2. The respondent/wife has moved M.C.No.413 of 2017, on the file of the VII Additional Principal Judge, Family Court, Chennai, seeking maintenance in a sum of Rs.10,000/- per month, under Section 125 of Cr.P.C. Thereafter she has moved a miscellaneous petition in M.P.No.365 of 2018 seeking the same sum as interim maintenance and by order dated 13.02.2019, the Family Court, Chennai, has directed payment of maintenance in a sum of Rs.10,000/- per month.

3. Learned counsel for petitioner submits that the respondent/wife is a MBA graduate and she is capable of getting a job and has also rented out the own building and is earning a rental income of Rs.50,000/- which was suppressed by the respondent and the Family Court, Chennai failed to consider the fact that the respondent is a earning member and also having

sufficient means and therefore order passed by the VII Additional Family Court, Chennai is liable to be set aside.

4. A perusal of the records show that the marriage took place between them on 10.01.2017 and it is also not in dispute that a child was born to them and the wife is residing separately along with her child. It is also informed that a civil suit in O.S.No.117 of 2017, moved by the petitioner/husband, for restitution of conjugal rights and the same is pending on the file of II Additional Family Court, Chennai. The respondent also filed a case for maintenance and the same is also pending before the same Court. The petitioner has not proved before the Family Court that the respondent is having sufficient means to maintain herself and the child. The respondent has filed a case in this regard and the same is pending and the order was passed only in M.P.No.365 of 2018. Therefore it is for the revision petitioner to take all the ground before the Family Court in the maintenance case and since it is only an interim maintenance, unless the revision petitioner proves that the respondent is having sufficient means to maintain herself, the order passed by the Family Court is not perverse. Therefore there is no merit in the revision petition and the revision petitioner is directed to comply with the order of the Family Court within a period of one month from the date of receipt of a copy of this order. Family Court is directed to dispose of the maintenance case within a period of one month from the date of receipt of a copy of this order.

5. This criminal revision case is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dpq

To

The VII Additional Principal Judge,
Family Court, Chennai.

+1 cc to M/s.V.Karnan, Advocate, Sr.No. 400704

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SAI (CO)
CSL/27.06.2019