

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.09.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.Nos.637 and 655 of 2019  
and  
Crl.M.P.No.8899 of 2019

R.Rajendran

.. Petitioner in both petitions  
Vs

A.Rajeswari

.. Respondent in both petitions

Prayer in Crl.R.C.No.637/2019:- The Criminal Revision Petition has been filed, under section 397 r/w 401 of Cr.P.C., to set aside the order dated 11.02.2019, passed in M.P.No.698/2018 in M.C.No.240/2013, by the learned V Additional Family Court, Chennai and quash the same.

Prayer in Crl.R.C.No.655/2019:- The Criminal Revision Petition has been filed, under section 397 r/w 401 of Cr.P.C., to set aside the order dated 11.02.2019, passed in M.P.No.1169/2018 in M.C.No.240/2013, by the learned V Additional Family Court, Chennai and quash the same.

For Petitioner in both petitions : Mr.J.Lorde Thomas Sateesh

For Respondent in both petitions : Mr.A.D.Janarthanan

COMMON ORDER

Criminal Revision No.637/2019 has been filed by the petitioner seeking to to set aside the order dated 11.02.2019, in M.P.No.698/2018 in M.C.No.240/2013, passed by the learned V Additional Family Court, Chennai, (Which is now transferred to the learned IV Additional Family Court, Chennai) and Criminal Revision No.655/2019 has been filed by the petitioner seeking to to set aside the order dated 11.02.2019, in M.P.No.1169/2018 in M.C.No.240/2013, passed by the learned V Additional Family Court, Chennai, (not transferred).

2 By consent of both the learned counsel, these criminal revisions are taken up for final hearing.

3 Heard the learned counsel on both sides and perused the materials available on record.

4 The learned counsel for the petitioner would submit that the petitioner/husband had filed a petition under Order 9 Rule 7 of Cr.P.C., seeking to set aside the ex parte order passed in MC.No.240/2013, dated 18.07.2018. He would further submit that the Family Court without affording sufficient opportunity had passed an order and thereby, the petitioner had filed a petition to set aside the ex parte order and the petition was allowed on condition that the petitioner shall pay the 1/3<sup>rd</sup> arrears amount of maintenance as ordered on 18.07.2018 in MC.No.240/2013 within one month from that date of order. Against the order, the petitioner has filed this present revision and this Court had passed conditional order, dated 05.09.2019, directing the petitioner to deposit an amount of Rs,2,00,000/- and the petitioner has complied with the order passed by this Court by depositing an amount of Rs.2,00,000/- (Rupees Two Lakhs Only) and the respondent/wife has also withdrawn the same. Thereby, he would seek that the order may be set aside and the petitioner may be permitted to contest the case. He would further submit that consequent to the dismissal of the petition to set aside the exparte order, the respondent/wife had filed a petition in M.P.No.698/2018, under Section 451 of Cr.P.C., and that without affording sufficient opportunity to the petitioner/husband and without hearing him, the order has been passed by the Court on 11.02.2019, directing the petitioner to return the Sridhana Articles. The learned counsel would submit that yet another petition in O.P.No.567/2019, filed by the petitioner/husband for divorce is also pending before the Trial Court.

5 The learned counsel for the respondent would submit that the petitioner had complied with the conditional order passed by this Court by depositing the amount of Rs.2,00,000/-. He would submit that in so far as the petition for return of articles, the learned Judge has passed an orders on merits, taking into consideration, that the articles were handed over by the respondent/wife at the time of marriage.

6 At this juncture, the learned counsel for the petitioner would submit that since, the petitioner had not complied with the earlier order, the Family Court did not permit the petitioner to put forth his submissions and the order passed for return of property was also an ex parte order and would submit that the petitioner is prepared to get along with the cases without any further delay and would submit that time frame may be fixed to the Trial Court to dispose of the appeal.

7 Taking into consideration, the facts and circumstances of the case and also submissions made by the learned counsel on both sides, this Court is inclined to allow these criminal revisions and the orders passed by the learned V Additional Family Court, Chennai in Crl.M.P.Nos.698/2018 and 1169/2018 in M.C.No.240/2013 are set aside and the matter is remitted back to the Trial Court, for conducting fresh enquiry in accordance with

law. The Trial Court is also directed to accord priority and complete the enquiry and pass orders in M.C.No.240/2013, within four months from today.

8 In view of the above, these petitions stands disposed of. Consequently, connected miscellaneous petition is also closed.

Sd/-  
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

To:

1. The V Additional Family Court, Chennai.

2.The IV Additional Family Court,  
Chennai.

+2cc to Mr.A.D.Janarthanan, Advocate sr.83149 & 83150

Cr1.R.C.Nos.637 and 655 of 2019  
and  
Cr1.M.P.No.8899 of 2019

sai(co)  
nr 22/10/2019