

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.R.C.No.811 of 2019

C.Murugan

... Petitioner/Respondent

Vs.

1. Gomathi

2. Minor Krishnaveni

represented by mother/1st respondent ... Respondents/Petitioners

PRAYER: The Criminal Revision Petition has been filed, under Sections 397 and 401 of Cr.P.C., seeking to set aside the order dated 03.06.2019, made in M.C.No.69/2018, by the Family Court, Cuddalore.

For Petitioner : Mr.R.Sreedhar

For Respondents: Mr.R.Gopinath

O R D E R

1.The Criminal Revision petition has been filed, against the order dated 03.06.2019, made in M.C.No.69/2018, by the Family Court, Cuddalore, directing the petitioner/husband to pay an amount of Rs.5,000/- each to the 1st respondent/Wife and the 2nd respondent/Minor daughter and to pay an amount of Rs.25,000/- per month towards the educational expenses of the minor daughter.

2.In the petition, before the Trial Court, it had been averred by the wife that the marriage between the 1st respondent/wife and the revision petitioner/husband took place on 14.09.2009 at Kurinjipadi and at the time of marriage, 57 Sovereigns of Jewels and 10 Kg Silver Articles, were given to the revision petitioner/husband and after the marriage, the 1st respondent/wife and the revision petitioner/husband were living as a joint family along with the parents of the revision petitioner. Out of their wedlock, the 1st respondent/wife had delivered the girl child and on 13.05.2010, the revision petitioner/husband met with an accident and took treatment at Pims Hospital, Podicherry and

the father of the 1st respondent/wife had taken care of all the medical expenses and that after recovery of the 1st respondent/wife, the revision petitioner/husband and the 1st respondent/wife started living together in Kurinjipadi.

3. While, they were living separately, the revision petitioner started committing cruelty on the 1st respondent/wife and had driven her and her child out of the matrimonial home. Subsequently, the revision petitioner/husband has also filed a petition for divorce and the 1st respondent/wife had earlier filed a petition seeking maintenance. During the pendency of the earlier petitions, compromise was arrived at between the parties and thereby, the parties have been living separately at Kurinjipadi and thereafter, the revision petitioner/husband had taken a separate house and lived with his wife and daughter for two months and leaving her and the child alone in the house had started living with his parents. After completing the academic year, the 1st respondent/wife along with her daughter went to her parent's house and started living with them. The revision petitioner/husband was running two mobiles shop at Kurinjipadi and Pondicherry and earning more than Rs.50,000/- per month and since, he did not maintain his wife, the 1st respondent/wife had filed a petition for maintenance in M.C.No.69/2018, claiming Rs.10,000/- per month each for herself and her daughter and Rs.40,000/- towards educational expenses of the minor daughter.
4. The respondent had filed a counter, admitting the marriage and the birth of the child and further it had been admitted that the revision petitioner was earlier running a mobile showroom and earning an amount of Rs.50,000/- per month and he had been handing it over to the 1st respondent/wife. It had been further stated that the 1st respondent/wife had taken all the articles given at the time of marriage when she had gone to her parents house for delivery and that, the birth of the 2nd respondent was not intimated to him. It had been further stated that on 13.05.2010, the revision petitioner/husband had met with an accident and that he was admitted at Ramachandra Hospital, Chennai and that the 1st respondent/wife had visited him only once. It had been further denied that he was earning a monthly income of Rs.50,000/- per month and it had been stated that due to his business loss, the mobile shop had been closed and only he was earning a meagre income and thereby, prayed for dismissal of the maintenance petition.
5. The Trial Court after recording the evidence of both parties and hearing the learned counsel on both sides, finding that the revision petitioner has been running a mobile shop, had fixed the monthly maintenance, at the rate of Rs.5,000/- per month, each to the wife and daughter and also directed the

revision petitioner/husband to pay an amount of Rs.25,000/- towards educational expenses. Against the same, the present criminal revision petition has been filed.

- 6.The learned counsel for the revision petitioner/husband would submit that the 1st respondent/wife had not let in any evidence, to prove that the revision petitioner was running a mobile shop and earning monthly income of Rs.50,000/- per month and that the Trial Court had failed to take into consideration, that the revision petitioner had met with an accident and after the accident he was unable to run his business effectively, resulting in him suffering loss in the business and that, he was only getting a meager income and thereby, would pray to set aside the order passed by the Trial Court.
- 7.The learned counsel for the 1st respondent/wife would submit that the Trial Court having found that it was admitted by the revision petitioner before the Trial Court that he was running mobile shop, had awarded an amount of Rs.5,000/- each per month to the respondents and that the Trial Court taking into consideration, the present economic condition and that the 1st respondent/wife was not being maintained by the revision petitioner had awarded the amount of Rs.5,000/- each per month to the wife and child. The Trial Court, taking into consideration, the admission of the revision petitioner that he was running a mobile shop and finding that no other document has been produced by him to show his income has rightly fixed the amount at Rs.5,000/- per month each, to the respondents, which is reasonable.
- 8.This Court heard the learned counsel on either side and also perused the impugned order passed by the Trial Court.
- 9.The revision petitioner and the 1st respondent/wife were married on 14.09.2009. It had been admitted by the revision petitioner, that he was running a mobile shop and that though he had stated that he has closed the shop and doing business in market no documents have been filed by the revision petitioner/husband to prove the same and thereby, the Trial Court finding that the revision petitioner was running the mobile business, had fixed the amount of Rs.5,000/- each per month.
- 10.I do not find any infirmity in the order passed by the Trial Court and an amount of Rs.5,000/- each per month fixed for the 1st respondent/wife and 2nd respondent/daughter, in the opinion of this Court, seems to be reasonable and the amount of Rs.25,000/- awarded towards educational expenses per year also seems to be reasonable.

11.In view of the above, Criminal Revision is dismissed and the order dated 03.06.2019, made in M.C.No.69/2018, passed by the Family Court, Cuddalore is confirmed and the revision petitioner is directed to pay the maintenance amount fixed by the Trial Court regularly.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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To:

1.The Family Court, Cuddalore..

2.The Section officer

Criminal Section

High Court, Madras 104.

+1 CC to Mr.R.Gopinath,Advocate sr 91014

+1 CC to Mr.R.Sreedhar, Advocate sr 90882.

Cr1.R.C.No.811 of 2019

SKV(CO)

SP(30/12/2019)