

IN THE HIGH COURT OF JUDICATURE AT MADRAS
RESERVED ON : 21.02.2018
DELIVERED ON : 22.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
Crl.R.C.No.1356 of 2017
and
Crl.M.P.Nos.13188, 15957 & 15958 of 2017

P.Baskar ... Petitioner /Respondent

Vs

K.Thrijitha ... Respondent/Petitioner

Prayer: Criminal Revision filed under Section 397 and 401 of Cr.P.C., to set aside the order passed in M.P.No.352 of 2017 in M.C.No.82 of 2015 dated 09.10.2017 by the learned V Additional Family Court, Chennai.

For Petitioner : Mr.B.Narayanan

For Respondent : Mr.T.R.Ravi

ORDER

This Criminal Revision Petition is preferred by the appellant/petitioner against the orders passed by the Learned V Additional Family Court, Chennai in M.P.No.352 of 2017 in M.C.No.82 of 2015, dated 9.10.2017 wherein the learned trial judge directed the respondent to pay a sum of Rs.15,000/- per month as interim maintenance.

2.Brief case of the revision petitioner

The petitioner admits the marriage with the respondent on 26.04.2010. Due to the misunderstandings, the revision petitioner filed divorce petition in H.M.O.P.No.19 of 2014 before the learned Sub Court, Poonamallee, on the ground of cruelty under section 13(ia) (ib) of Hindu Marriage Act. After receiving the summons in the said H.M.O.P, the respondent (wife) filed maintenance application in the family Court, Chennai in M.C.No.82 of 2015 under Section 125 of Cr.P.C. Both parties entered appearance before the trial Court on 28.10.2014 and posted for counter in September 2015 before the learned Subordinate Judge, Poonamallee. The respondent filed a memo stating that she filed transfer O.P. in No.81 of 2015 before this Court without producing any order of stay. The learned trial Court proceeded with the case and passed exparte decree

on 1.03.2016. After the lapse of the appeal period, the revision petitioner got 2nd marriage and the same was registered. The petition filed by the respondent under order 9 rule 13 of C.P.C was also dismissed on 23.8.2017 in I.A.No.31 of 2017 in H.M.O.P.No.19 of 2017. The respondent filed interlocutory application for interim maintenance in M.P.No.352 of 2017 before the 5th Additional Family Court, Chennai. The revision petitioner filed his objections against the interim application. The learned trial judge after appreciating the contentions raised by the both parties allowed the petition and directed the revision petitioner to pay a sum of Rs.15,000/- per month as interim maintenance from the date of filing of the petition viz, 20.2.2017. Aggrieved over the same, the respondent (husband) filed this criminal revision.

3.The learned counsel for the revision petitioner submits that the respondent pre-existing illness before the solemnization of the marriage was suppressed thus resulting in a void marriage besides making out a ground for cruelty and the respondent failed to disclose the fact that the petitioner already obtained divorce and that he was legally remarried.

4.The learned counsel for the revision petitioner submits that the trial Court failed to appreciate the grounds raised by him and the order of the trial Court is erroneous and hence ought to be set aside on the following aspects.

5.The learned counsel for the revision petitioner submits that he got remarried and is bound to take care of his newly married wife and to take care of his aged parents who are having various health ailments.

6.The learned counsel for the revision petitioner submits that the respondent is highly qualified and had employment in IT sector, banks etc. which is an admitted fact and earning more than the petitioner.

7.The learned counsel for the respondent objected the contentions raised by the revision petitioner and seek dismissal of the revision.

8.I heard Mr.B.Narayanan, learned counsel for the petitioner and Mr.T.R.Ravi, learned counsel for the respondent and perused the entire materials available on record.

9.It is an admitted fact that the respondent was affected by chronic disease. The main objection raised by the revision petitioner is that the learned trial Court has no jurisdiction to entertain the maintenance case filed by the respondent.

10.The contention of the revision petitioner that he obtained a decree of divorce in H.M.O.P.No. 19 of 2014 do not prevent the respondent in filing the petition under section 125 of Cr.P.C for maintenance.

11.After careful perusal of records, the grounds raised by the revision petitioner cannot be sustained and the learned trial Court rightly allowed the application for interim maintenance.

12.Therefore, this Court modify the order passed by the learned trial Court by reducing the monthly maintenance of Rs.15,000/- to Rs.10,000/- and the learned trial Court is directed to dispose of the maintenance case in M.C.No.82 of 2015 within a period of four months from the date of receipt of a copy of this order. Accordingly, this criminal revision case is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

vs

To

1.The V Additional Family Court,
Chennai.

2. The Subordinate Judge,
Poonamallee.

+2cc to Mr. B.Srikrishnan, Advocate, S.R.No.4411

+1cc to Mr. T.R.Ravi, Advocate, S.R.No. 4533

CrI.R.C.No.1356 of 2017
and

CrI.M.P.Nos.13188, 15957 & 15958 of 2017

SR(CO)
GN(12/02/2019)

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