

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NO.1505 OF 2017

AND

CRL.M.P.NO.15027 OF 2017

N.Duraisamy

... Petitioner/Respondent

Vs

D.Bakiyalakshmi

... Respondent/Petitioner

PRAYER:

Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the order dated 17.07.2017 in M.C.No.148 of 2015 on the file of the Family Court, Coimbatore.

For Petitioner : Mr.N.Ponraj

For Respondent : Mr.L.Mouli

O R D E R

This criminal revision case has been filed to set aside the order dated 17.07.2017, in M.C.No.148 of 2015 on the file of the Family Court, Coimbatore.

2 The Petitioner is the husband and the respondent is the wife. The Marriage between the petitioner and the respondent was solemnized in the year of 1967 at Poosarypalayam. After the marriage they lived together in a matrimonial home. Out of their wed lock they were blessed with two female child and two male child. Then some misunderstanding arose between them, due to difference of opinion, the respondent/wife left the matrimonial home.

3 Thereafter, the respondent filed petition under Domestic Violence Act in D.V.A.No.29 of 2013 before the Learned Judicial Magistrate No.VII, Coimbatore. After the trial proceeding the learned Judicial Magistrate awarded a sum of Rs.3,000/- per month to the respondent towards monthly

maintenance. Further, the respondent filed a petition under section 125 of Crpc for maintenance before the Additional Family Court, Coimbatore in M.C.No.148 of 2015. After an elaborate enquiry the learned Additional Judge awarded a sum of Rs.8,000/- to the respondent towards maintenance. As against the said order the revision petitioner filed the present criminal revision case before this court.

4 The Learned counsel for the petitioner submitted that age of the petitioner is more than 70 years, and that he himself is not able to maintain and he is depending on his young son for his daily needs. Under these circumstances, he is not in a position to pay any maintenance to his wife. The respondent/wife is living with her widowed Daughter and they are taking care of her. Further, he would submit that the respondent left the matrimonial home without any valid reason and no means to maintain her. Hence, the learned counsel prays to allow this Criminal Revision case.

5 The learned counsel for the respondent submitted that the petitioner despite having sufficient means and neglect to maintain his wife, even the wife is not able to maintain herself and was also running a work shop. Subsequently, he denied that he was running a workshop but later admitted that he is running a workshop. Further, he is not having any property with him and also his son is running the workshop. Hence, the learned counsel prays to dismiss the revision case.

6 Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on records.

7 Considering the facts and circumstances of the case, that the relationship between the petitioner and the respondent is not in dispute and the paternity of their children is also not in dispute. However, in this case whether he is running a workshop or not and whether the person having sufficient means but neglect to maintain the wife as the wife is not able to maintain her, she is entitled to get the maintenance. It is not the case of the petitioner that the wife has property. Therefore, under these circumstances this Court also finds that the petitioner has sufficient means and refused to maintain his wife and wife is unable to maintain herself. Under these circumstances the husband is liable to maintain his wife and the wife is also entitled to get maintenance from her husband.

8 It seems that, the learned Judicial Magistrate No. VII, Coimbatore, awarded a sum of Rs.3,000/- per month to the respondent towards monthly maintenance in the Domestic Violence Case. Further, the respondent filed a petition under section 125 of Crpc for maintenance before the Additional Family Court, Coimbatore, in M.C.No.148 of 2015. After an elaborate enquiry the learned Additional Judge awarded a sum of Rs.8,000/- to the respondent towards maintenance. Since the Magistrate already granted a sum of Rs.3,000/- per month and the petitioner is also aged about 70 years, hence, a sum of Rs.8,000/- awarded by the Family Court is reduced to Rs.5,000/- .

9 With the above modification this Criminal Revision Case is disposed of. Consequently, the connected Criminal Miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sbn

To

1. The learned Judicial Magistrate-No VII, Coimbatore.
2. The Additional Judge, Family Court, Coimbatore.

+1cc to Mr.N.Ponraj, Advocate, S.R.No.26903
+1cc to Mr.L.Mouli, Advocate, S.R.No.26411

Crl.R.C.No.1505 of 2017
and

Crl.M.P.No.15027 of 2017

BS(CO)
CS/02/12/2019

WEB COPY