

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.820 of 2017 and
CrI.M.P.Nos.7498 and 7499 of 2017

Vijayalakshmi

...Petitioner

-Vs-

1. T. Arul

2. T. Anandavalli

...Respondents

This Criminal Revision case is filed under Sections 397 of Cr.P.C. to set aside the order in C.A.No.244 of 2012 (on the file of Hon'ble III Additional Sessions City Civil Court at Chennai) in M.P.No.4014 of 2012 in CrI.M.P.No. 2132 of 2012 (on the learned XVIII Metropolitan Magistrate, Saidapet, Chennai dated 23.10.2013.

For Petitioner : Ms.Kanimozhi mathi

For Respondent : Mr.M. Murali

O R D E R

This criminal revision has been filed to set aside the order dated 23.10.2013 in C.A.No.244 of 2012 on the file of the learned III Additional Sessions Judge, City Civil Court at Chennai, modifying the order passed in M.P.No.4014 of 2012 in CrI.M.P.No. 2132 of 2012 by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai.

2. The Revision petitioner is the wife, the first respondent is the husband and second respondent is the mother-in-law.

3. The revision petitioner/wife filed a petition under sections 18,19,20,22,12(1) and Section 23 of Domestic Violence Act, before the XVIII Metropolitan Magistrate to pass an interim order granting interim maintenance, shelter, protection of interim compensation to the petitioner and the learned XVIII, Metropolitan Magistrate by an order dated 20.11.2012 directed the respondents to pay a sum of Rs.5,000/- per month to the

petitioner/wife towards interim maintenance.

4. Challenging the said order, the husband/first respondent filed Criminal appeal before the learned Sessions Judge in C.A.No.244 of 2012 and the same was partly allowed and the interim maintenance amount of Rs.5,000/- per month was modified to Rs.2,000/- per month.

5. Aggrieved over the same the petitioner/wife has preferred the present appeal.

6. The learned counsel for the petitioner would submit that the award amount of Rs.5,000/- was not reasonable, considering the financial position of the first respondent/husband. She further submitted that though, the petitioner filed a number of documents to prove the financial stability of the first respondent/husband, it was not properly appreciated by the Courts below.

7. The learned counsel for the respondents would submit that the first respondent has filed a petition for divorce and in H.M.O.P.No.1779 of 2011, and in order to wreak vengeance, the petitioner filed a petition under the provisions of the Domestic Violence Act. He further submitted that the petitioner/wife was only pursuing C.A.Course and is unemployed and considering the financial status of the husband, the learned Sessions Judge has rightly fixed the interim maintenance @ Rs.2,000/- p.m and the same does not warrant interference.

8. The Supreme Court has time and again held that it is the obligation of the husband to maintain his wife and he cannot be permitted to plead that he is unable to maintain his wife due to financial constraints.

9. In such view of the matter the order dated 20.11.2012 passed by the XVIII Metropolitan Magistrate, Saidapet, Chennai-15, in M.P.No.4014 of 2012 in CrI.M.P.No.2132 of 2012 is confirmed and the order dated 23.10.2013 in C.A.No.244 of 2012, is set aside and the first respondent is directed to pay maintenance at the rate of Rs.5,000/- per month.

10. With the above observations, the criminal revision is allowed. Consequently, connected miscellaneous petition are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

smn

To

The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

+1 cc to M/s.Kanimozhi mathi, Advocate, Sr.No. 39842

+1 cc to Mr.M.Murali, Advocate, Sr.No. 42367

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CSL/27.06.2019



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