

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1197 of 2018 and
Crl.M.P.No.14134 of 2018

Nagaraj ... Petitioner/Respondent/
Respondent
Vs

1.Dhanam
2.N.R.SuryaShri ... Respondents/Petitioners/
Petitioners

PRAYER: Criminal Revision case filed under Article 397 r/w 401 of Criminal Procedure Code to set aside the order dated 11.11.2017 made in M.C.No.368 of 2016 passed by the learned Principal Family Court Judge at Chennai.

For Petitioner : Mr.Chinnathambi

For Respondents : Mr.R.Prabhakar

O R D E R

This Criminal Revision case has been filed to set aside the order dated 11.11.2017 made in M.C.No.368 of 2016 passed by the learned Principal Family Court Judge at Chennai.

2. The petitioner is the husband and the 1st respondent is the wife. The marriage between the petitioner and the 1st respondent was solemnized on 19.06.2003. After the marriage, they lived together in a Matrimonial home. Out of their wedlock, they gave birth to one female child on 12.07.2006. Due to the difference of opinion arose between them, the 1st respondent left from the Matrimonial home along with the minor child and they were living separately.

3. Thereafter, the respondents filed a case under Section 125 Cr.P.C., before the learned Principal Judge, Family Court, Chennai, in M.C.No.368 of 2016 for maintenance. After hearing the matter elaborately, the learned Principal Judge, Family Court, Chennai, awarded a sum of Rs.4,000/- each per month to

the 1st and 2nd respondents. As against the said order, the petitioner has filed the present Revision Case.

4. The learned Counsel for the petitioner would submit that the first respondent is an UG holder and she is able to maintain herself. Further, he submits that the 1st respondent has filed a complaint under Domestic Violence Act against the petitioner in D.V.C.No.28 of 2011 on the file of the IX Metropolitan Magistrate Court, Saidapet, seeking maintenance and return of Shrihana articles along with compensation and residence order as interim measures under Sections 20(d), 22 r/w 19(1) of the Domestic Violence Act. After considering the application the learned IX Metropolitan Magistrate disposed the case with a direction to pay a sum of of Rs.1,000/- per month to the 1st respondent for maintenance. The petitioner has obeyed the Court order and has regularly paid the aforesaid sum of Rs.1,000/-. Further, the petitioner had obtained Divorce from the 1st respondent in H.M.O.P.No.218 of 2012 on the file of the Subordinate Court, Pudhukottai. Hence, the award of a sum of Rs.4,000/- each per month to the 1st and 2nd respondent, is very exorbitant, so, the petitioner prays to allow this Revision case.

5. The learned counsel appearing on behalf of the respondents would submit that, the respondent was working in Singapore from the year 2003 to 2006 and earned Rs.50,000/- per month. Thereafter, he came to India and has started borewell business and earning more than Rs.5,00,000/- per month. Hence, the learned Principal Judge, Family Court, Chennai, awarded a sum of Rs.4,000/- each per month to the 1st and 2nd respondent, which is very meagre. Further, as per the DVC.No.28 of 2011, the learned IX Metropolitan Magistrate, Saidapet, Chennai, awarded a sum of Rs.1,000/- per month to the 1st respondent for her maintenance. But, the petitioner herein is not complying the said order passed by the IX Metropolitan Magistrate, Saidapet, Chennai. Hence, the respondents prayed for dismissal of this Revision Case.

6. Heard both sides and perused the records.

7. Considering the facts and circumstances of the case, there is no document to prove that the income of both parties. However, the relationship is admitted. As per the Section 125 Cr.P.C., the divorced wife is also entitled to get the maintenance, if the wife is unable to maintain herself and the minor child. Hence, the learned Principal Judge, Family Court, Chennai, awarded a sum of Rs.4,000/- each per month to the 1st and 2nd respondent and as per the DVAC.No.28 of 2011, the learned IX Metropolitan Magistrate, Saidapet, Chennai, is awarded Rs.1,000/- per month to the 1st respondent for her maintenance. Now, the total amount came to Rs.9,000/- only.

Considering the costs of living and other expenses as on date Rs.9,000/- is not an exorbitant amount. It is very reasonable amount to maintain mother and minor daughter. While admitting this Revision Case, this Court passed a conditional order to deposit 75% of the arrears amount. But, the petitioner has not deposited the arrears amount till the disposal of this Case. Further, the Revision Petitioner has not complied with the condition imposed by this Court, by an order dated 26.10.2018 and hence petitioner herein is directed to pay the entire arrears amount within a period of two (2) months from the date of receipt of a copy of this order failing which, the respondent is entitled to take steps to recover the entire arrear amount in accordance with law.

8. Considering the facts and circumstances of this case, there is no need to interfere with the order passed by the learned Principal Judge, Family Court, Chennai in M.C.No.368 of 2016 dated 11.11.2017. This Court does not find any merits in this Revision case and accordingly, this Criminal Revision Case is dismissed. Consequently, the Criminal Miscellaneous Petition is closed.

Sd/-

Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

sbn

To

1.The Principal Judge, Family Court,
Chennai.

2.The IX Metropolitan Magistrate Court,
Saidapet, Chennai

Copy To: The Section Officer,
Criminal Section, High Court, Madras.

+1 cc to Mr.R.Prabakar, Advocate, Sr.No. 17758

+1 cc to Mr.Chinnathambi, Advocate, Sr.No. 18589

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CSL/19.06.2019