

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.RC.No.1140 of 2018
and
Crl.M.P.No.13279 of 2018

S.Manikandan
S/o.K.G.Srinivasan

... Petitioner/Petitioner

Vs

Mangalanayaki
W/o.Manikandan

.. Respondent/Respondent

Criminal revision preferred under Section 397 read with Section 401 of Cr.P.C. seeking to set aside the order dated 09.08.2018 passed in Crl.A.No.54 of 2017 by the II Additional District Sessions Judge, Chidambaram.

For Petitioner : M/s.A.Arulmozhi

For Respondent : Mr.K.Balakrishnan

O R D E R

This Criminal Revision has been preferred to set aside the order dated 09.08.2018 passed in Crl.A.No.54 of 2017 by the II Additional District Sessions Judge, Chidambaram.

2. For the sake of convenience, the parties will be referred to by their name.

3. Manikandan got married to Mangalanayaki on 29.04.2007 and thereafter, their marriage ran into rough weather resulting in the spouses getting estranged. Mangalanayaki initiated proceedings under the Domestic Violence Act in M.C.No.4 of 2011 before the Judicial Magistrate No.II, Chidambaram against Manikandan claiming various reliefs. Manikandan filed H.M.O.P.No.60 of 2009 before the Sub-Court, Kumbakonam for

divorce on the ground of cruelty against Mangalanayaki. After a full-fledged trial, in which, Mangalanayaki examined herself as P.W.1 and Manikandan examined himself as R.W.1 and marked Exs.R1 to R9, the Judicial Magistrate No.II, Chidambaram, by order dated 18.12.2014 in M.C.No.4 of 2011 directed Manikandan to pay a sum of Rs.1,000/- p.m. as maintenance and Rs.1,000/- p.m. towards rent to Mangalanayaki. In the meantime, the Sub Judge, Kumbakonam had directed Manikandan to pay interim maintenance of Rs.3,000/- p.m. to Mangalanayaki in H.M.O.P.No.60 of 2009. The amount of Rs.3,000/- p.m. ordered by the Sub-Judge, Kumbakonam in H.M.O.P.No. 60 of 2009 was also taken into account by the Judicial Magistrate No.II, Chidambaram while fixing the maintenance amount at the rate of Rs.2,000/- p.m. in M.C.No.4 of 2011 on 18.12.2014. Challenging the order passed by the Judicial Magistrate No.II, Chidambaram, Mangalanayaki filed Crl.A.No.54 of 2017 under Section 29 of the Domestic Violence Act, before the Sessions Court, Chidambaram. After hearing both sides, the II Additional District and Sessions Judge, Chidambaram passed final order in Crl.A.No.54 of 2017 on 09.08.2018 and granted the following reliefs to Mangalanayaki:

That Manikandan should provide accommodation in the joint household; Manikandan should return 10 sovereigns of gold jewels that was given to Mangalanayaki at the time of marriage; Manikandan should return the household articles that was given to Mangalanayaki at the time of marriage; Manikandan should pay monthly maintenance of Rs.5,000/- p.m. (Rs.3,000/- p.m. as ordered by the Sub Judge, Kumbakonam in H.M.O.P.No.60 of 2009 + Rs.2,000/- p.m. as ordered by the Judicial Magistrate No.2, Chidambaram in M.C.No.4 of 2011) to Mangalanayaki.

4. Challenging the order passed by the II Additional District and Sessions Judge, Chidambaram, Manikandan is before this Court.

5. Heard Mr.A.Arulmozhi, learned counsel appearing for Manikandan and Mr.K.Balakrishnan, learned counsel appearing for Mangalanayaki.

6. At the time of admission, this Court granted interim stay in Crl.MP.No.13279 of 2018 in Crl.R.C.No.1140 of 2018 on 05.10.2018 directing Manikandan to deposit a sum of Rs.60,000/- towards arrears of maintenance to the credit of Crl.A.No.54 of 2017 on the file of the II Additional District and Sessions Court, Chidambaram on or before 02.11.2018 and further directed Manikandan to pay a sum of Rs.2,500/- p.m. to Mangalanayaki as

maintenance on or before 5th day of every English Calendar month. Accordingly, Manikandan deposited the sum of Rs.60,000/- to the credit of Crl.A.No.54 of 2017 on the file of the II Additional District and Sessions Court, Chidambaram. Since there was no order from this Court for permitting Mangalanayaki to withdraw the deposited amount, the said amount is still lying in the Court. Admittedly, Manikandan has not paid the monthly maintenance of Rs.2,500/- p.m. that was ordered by this Court on 05.10.2018 in Crl.MP.No.13279 of 2018 in Crl.R.C.No.1140 of 2018.

7. The learned counsel for Manikandan submitted that Manikandan has to take care of his aged parents and he does not have means to maintain Mangalanayaki.

8. The above contention was refuted by the learned counsel appearing for Mangalanayaki.

9. This Court gave its anxious consideration to the rival submissions.

10. In the opinion of this Court, the order passed by the II Additional District and Sessions Judge, Chidambaram does not suffer from any serious infirmity warranting interference. In fact, Under Section 20(1)(d) of the Domestic Violence Act, the Court dealing with a petition can also pass orders under Section 125 Cr.P.C. The total sum of Rs.5,000/- p.m. that has been ordered by the Court below cannot be said to be excessive. The fact remains that Manikandan has not even paid the sum of Rs.2,500/- that was ordered by this Court on 05.10.2018 in Crl.M.P.No.13279 of 2018 in Crl.R.C.No.1140 of 2018. On a conspectus of the facts obtaining in this case, this Court does not find any infirmity in the order passed by the II Additional District and Sessions Judge, Chidambaram, warranting interference.

11. In the result, this Criminal Revision case stands dismissed. Mangalanayaki is entitled to withdraw the sum of Rs.60,000/- that was deposited by Manikandan to the credit of Crl.A.No.54 of 2017 on the file of the II Additional District and Sessions Court, Chidambaram. Manikandan shall pay the arrears of maintenance before the trial Court within a period of four weeks from the date of receipt of a copy of this order. From the month of September onwards, Manikandan shall continue to pay the sum of Rs.2,500/- p.m. as monthly maintenance before

the trial Court on or before 10th of every English calendar month and on such deposit, Mangalanayaki will be entitled to withdraw the same. It is open to Mangalanayaki to execute the order in accordance with law on the failure of Manikandan to pay the said amounts. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mk

To

II Additional District Sessions Judge,
Chidambaram

Copy To
The Section Officer,
Criminal Section,
High Court, Madras-104.

+1cc to Mr.K.Balakrishnan, Advocate, S.R.No.72034

+1cc to M/s.A.Arulmozhi, Advocate, S.R.No.85987 (15.10.2019)

CRL.R.C.No.1140 of 2018

SJ(CO)
CS/30/09/2019

सत्यमेव जयते
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