

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1429 of 2018

and

Crl.M.P.Nos.16682, 16685 & 16686 of 2018

Kamalakannan

... Petitioner

Vs.

Banumathy

... Respondent

PRAYER: This Criminal Revision case has been filed Under Section 397 r/w 401 of Cr.P.C to call set aside the order dated 18.07.2018 passed by the learned Additional District Judge-I, Salem in Crl.Appeal No.13 of 2018 confirming the order dated 11.12.2017 passed by the learned Judicial Magistrate cum Additional Mahila Judge, Salem in D.V.O.P.No.110 of 2013.

For Petitioner : Ms.T.Kavitha

For Respondent : T.M.Hariharan

O R D E R

This Criminal Revision Case has been filed by the petitioner Under Section 397 r/w 401 of Cr.P.C to call set aside the order dated 18.07.2018 passed by the learned Additional District Judge-i, Salem in Crl.Appeal No.13 of 2018 confirming the order dated 11.12.2017 passed by the learned Judicial Magistrate cum Additional Mahila Judge in D.V.O.P.No.110 of 2013.

2.The petitioner is the husband and the respondent is the wife. The respondent filed a petition before the learned Special Judicial Magistrate, Salem under Section 12 of Domestic Violence Act for protection, shelter and also for maintenance. The learned Magistrate after enquiry has ordered to pay a sum of Rs.15,000/- all together for all the purposes as prayed in the petition.

3.The learned counsel for the petitioner would submit that there was an interim award passed by the learned Magistrate in C.M.P.No.662 of 2013 dated 24.05.2013 for a sum of Rs.8,000/-. Subsequently, the final order passed by the learned Special

Judicial Magistrate, Salem has awarded a sum of Rs.15,000/- all together as prayed in the petition.

4.The learned counsel for the petitioner would further submit that the petitioner is suffering from the ailment and he is spending huge money for his medical expenses. Though, the respondent stated in her complaint that the petitioner is running a xerox shop, there is no proof to show that the petitioner is having a xerox shop and he is earning money from the shop. Further, the respondent on her own volition left the matrimonial home and not liable for the maintenance. Accordingly, prays for setting aside the order passed by the learned Special Judicial Magistrate, Salem.

5.The learned counsel for the respondent would submit that the respondent not only having two female children, both of them are living with the respondent. So far the petitioner has not filed any custodian petition as stated by him and got the order from the competent court. Accordingly, prays for dismissal of the revision.

6.Heard both sides. Perused the records.

7.Considering the facts and circumstances of the case and since the petitioner himself has admitted that both the children are female children and they are living with the respondent, the payment of Rs.15,000/- is not exorbitant. Considering the cost of living and raising of prices of the things prevailing as on date the maintenance amount awarded by the Magistrate is very reasonable.

8.From reading of the records, it is clear that the paternity of the children is not in dispute. The Custody of the children with the respondent is also not in dispute. Under these circumstances, this court does not find any perversity or infirmity in the order passed by both the Courts below while deciding the case. There is no merit in this revision and the same is liable to be dismissed.

9.Accordingly, this Criminal Revision Case stands dismissed. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

kas

To.

1.The Additional District Judge-I, Salem

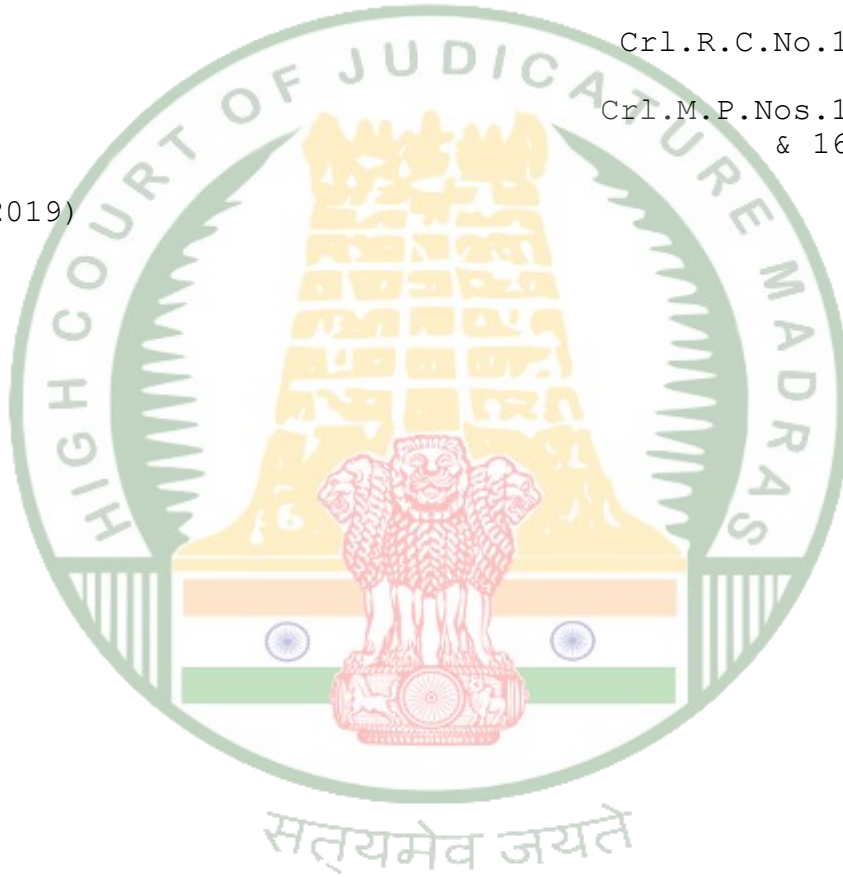
2.The Judicial Magistrate
cum Additional Mahila Judge, Salem

+1 CC to Mr.Giridhar & Sai, Advocate sr 15774.

+1 CC to Mr.T.M.Hariharan, Advocate sr 15388.

Crl.R.C.No.1429 of 2018
and
Crl.M.P.Nos.16682, 16685
& 16686 of 2018

SP(12/03/2019)



WEB COPY