

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1307 of 2018

S. Simon Radjou

... Petitioner/Respondent

Versus

R. Arokiamary Philomena

... Respondent/ Petitioner

Criminal Revision cases filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to order dated 24.09.2018 passed by the learned Family Court at Puducherry in M.C.No.21 of 2012 and to set aside the same.

For Petitioner : Mr.R. Thiagarajan

For Respondent :Mr.S.Xavier Felix

O R D E R

The revision petitioner is husband and the respondent is wife. The marriage between the petitioner and the respondent was solemnized on 27.06.2002, at Pondicherry. Due to the difference of opinion arose between them, the petitioner driven the respondent from the matrimonial home. The petitioner has filed the divorce petition before the Family Court in MOP No.168 of 2006 and the same was dismissed. Against which the petitioner filed CMA. No.988 of 2014 before this Court. This Court has allowed the appeal and granted divorce. In the mean while, the wife has filed a petition in M.C.21 of 2012 before the Family Court, Puducherry. After hearing both sides, the learned Family Court Judge partly allowed and directed the petitioner to pay a sum of Rs.5000/- per month to the respondent. Challenging the order passed by the Family Court, the petitioner has filed this present revision before this Court.

2. The learned counsel appearing on behalf of the petitioner would submit that the respondent did not contest the matrimonial OP before the Court below that itself shows that without any reason she left the matrimonial home and she refused to live with her husband and therefore, the wife is not entitled to claim maintenance. Hence, the learned counsel prays this Court to set aside the order of the trial Court.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. On a perusal of records, there is nothing to show that the wife left the matrimonial house without any reason. In the order passed by this Court in CMA. No.988 of 2014, has also not stated anything about it. Since she has not contested the Matrimonial OP, this Court cannot come to the conclusion that the respondent/wife left the matrimonial without any reason. Unless it is established by the revision petitioner that the respondent/wife left the home without any reason. Though the petitioner has not filed any petition under restitution of conjugal rights to bring back the respondent to the matrimonial home. Admittedly, the petitioner has filed the divorce petition itself shows that the husband has not willing to live with the respondent/wife and the petitioner neglected his wife and refused to pay the maintenance.

5. Admittedly, the petitioner is working as MTS, Government Hospital for Chest Diseases and getting a salary of Rs.30,000/- per month. The respondent/wife is not having any sufficient means and she is unable to maintain herself. The learned counsel for the petitioner submitted that the respondent is receiving destitute women pension. But it was only Rs.1,500/- per month with that amount of Rs.1,500/-, she could not maintain herself.

6. Therefore, the Family Court has awarded a sum of Rs.5,000/- per month towards maintenance to the respondent is not excessive. This Court does not find any valid reason to interfere with the order of the Family Court. Considering the facts and circumstances of the case, this Court finds that there is no merits in the revision case and this Court is not inclined to interfere with the order passed by the trial below.

7. Further, the petitioner is directed to pay the entire arrears of maintenance to the respondent within a period of three months from today and also the petitioner is directed continue to pay the maintenance to the respondent which was ordered by the Family Court, Puducherry in M.C.No.21 of 2012 dated 24.09.2018.

8. With the above observation and direction, the Criminal Revision case is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

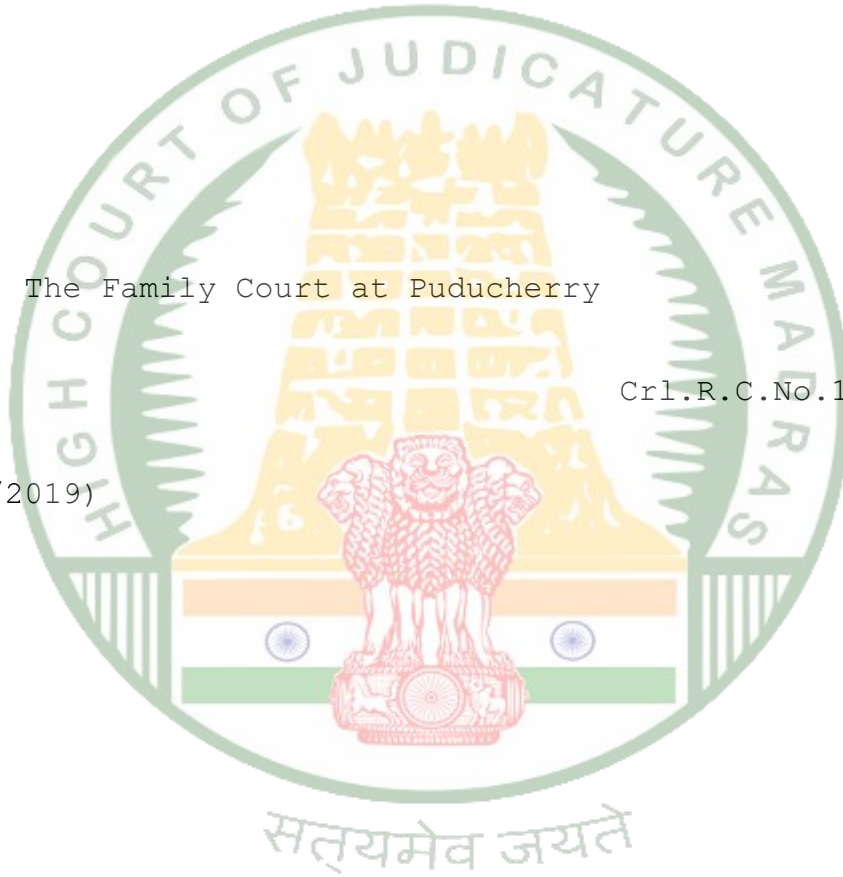
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To

The Judge, The Family Court at Puducherry

Cr1.R.C.No.1307 of 2018

VP (CO)
GMY (29/08/2019)



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