

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1391 of 2018
and Crl.R.C.No.23 of 2019
and Crl.M.P.No.154 of 2019

Crl.R.C.No.1391 of 2018:

1. H.S.Vaishnave

2. Minor R.Bhisma
Represented by his mother
and Natural Guardian/1st petitioner ...Petitioners

Versus

S.Ramesh ...Respondent

Criminal Revision filed under Section 397 read with Sections 401 of Code of Criminal Procedure, to enhance the maintenance amount awarded in M.C.No.12 of 2018 dated 11.10.2018 passed by the learned Chief Judicial Magistrate, Krishnagiri.

For Petitioner : Mr.S.Swamidoss Manokaran
For Respondent : Mr.V.Lakshminarayanan

Crl.RC.No.23 of 2019:

S.Ramesh ...Petitioner

Versus

1. H.S.Vaishnave

2. Minor R.Bhisma
Represented by his mother and Natural Guardian
/1st respondent ...Respondents

Criminal Revision filed under Section 397 read with Sections 401 of Code of Criminal Procedure, against the maintenance order passed by the learned Chief Judicial Magistrate, Krishnagiri in M.C.No.12 of 2018, dated 11.10.2018.

For Petitioner : Mr.V.Lakshminarayanan
For Respondents: Mr.S.Swamidoss Manokaran

C O M M O N O R D E R

Crl.R.C.No.1391 of 2018 has been filed by the wife and her son as against the order passed in M.C.No.12 of 2018 dated 11.10.2018 on the file of the learned Chief Judicial Magistrate, Krishnagiri, praying for enhancement of quantum of maintenance amount.

Crl.R.C.No.23 of 2019 has been filed by the husband, challenging the very same order passed in M.C.No.12 of 2018 dated 11.10.2018 on the file of the learned Chief Judicial Magistrate, Krishnagiri, praying to set aside the said order.

2. The marriage between the first petitioner and respondent in Crl.RC.No.1391 of 2018 took place on 15.09.2013 at Krishnagiri. After the marriage, the spouses were living together. Out of the wedlock, a male child viz., Bhisma was born. Thereafter, difference of opinion arose between them. It is the contention of the husband that the wife caused cruelty and deserted him without any valid reason. According to the wife, due to demand of dowry, she has been driven out from the matrimonial home with her child. Thereafter, the wife filed a petition in HMOP. No.2 of 2017 before the learned Sub Judge, Krishnagiri, seeking restitution of conjugal rights. The wife has also filed a petition under Section 125 of Cr.P.C., claiming maintenance before the learned Chief Judicial Magistrate, Krishnagiri in M.C.No.12 of 2018. After an elaborate enquiry, the learned Judge directed the husband to pay a sum of Rs.12,000/- per month as maintenance to the wife and Rs.8,000/- per month to his son, in total, Rs.20,000/- to the petitiones in Crl.R.C.No.1391 of 2018.

3. Challenging the same, the present two revisions have been filed as mentioned above. For the sake of convenience, the parties are referred as per their relationship.

4. The learned counsel appearing for the wife would contend that her husband is earning more than Rs.1 lakh per month and he has ancestral properties and also sold the house at Chrompet about 1 ½ Crores and invested the amount in Banks in fixed deposits. The wife has no income to maintain herself and her child. According to the learned counsel, the amount of maintenance ordered by the learned Chief Judicial Magistrate is very low and therefore, the same warrants interference.

5. The learned counsel appearing for the husband would submit that the wife is a B.E., Graduate. Before the marriage, she was working as Lecturer at Adhiyaman Engineering College. Therefore, the wife is a capable person for maintaining herself. Hence, she is not entitled to get any maintenance. The husband

has no permanent job and he has to take care of his aged parents. The wife left the matrimonial home without any valid reason. Therefore, the learned counsel prays this court to set aside the order passed by the learned Chief Judicial Magistrate, Krishnagiri.

6. Heard the learned counsel appearing for the husband and wife and also perused the materials available on record.

7. The relationship of the parties are not in dispute and the marriage is not in dispute and the paternity of the child is also not in dispute and both are living separately. Only dispute that is involved in the case is, according to the husband, the wife left the matrimonial home without any valid reason. According to the wife, due to cruelty caused by the husband, she left the matrimonial home. Since, there are no materials to show that the husband has earning more than Rs.1,50,000/-, the contention raised by the learned counsel for the wife is rejected. Whereas the husband has proved that the wife is an Engineering Graduate and she has earning capacity. However, the husband has not proved that as on date, wife is working and also not proved the income of the wife. She is living separately with child. The child, aged about 3 years, is under the care and custody of the wife. Under these circumstances, the learned Chief Judicial Magistrate, Krishnagiri directed the husband to pay a sum of Rs.12,000/- per month as maintenance to the wife and Rs.8,000/- per month to his son, which in the considered opinion of this court, is not an exorbitant amount.

8. This Court is of the opinion that the award passed by the Court below is reasonable and the husband could be directed to pay the monthly maintenance to his wife and child as directed by the learned Chief Judicial Magistrate, Krishnagiri in M.C.No.12 of 2018, dated 11.10.2018. This Court does not find any justifiable reason to interfere with the order impugned in these revision petitions.

9. In the result, both the Criminal Revision Cases are dismissed. Consequently, connected miscellaneous petition is also closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

The Chief Judicial Magistrate, Krishnagiri.

+1 CC to Mr.V.Raghavachari, Advocate sr 14029.

CrI.R.C.No.1391 of 2018
and
CrI.R.C.No.23 of 2019
and
CrI.M.P.No.154 of 2019

RP (CO)
SP (17/02/2020)



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