

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1501 of 2018

and

Crl.M.P.No.17579 of 2018

G.Rajesh

.. Petitioner

Vs.

1. L.Uma @ Uma Maheswari

2. Vidhyasri (Minor)

Represented by her natural guardian

& Mother L.Uma @ Uma Maheswari

.. Respondents

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to call for the records pertaining to the impugned order passed by the Hon'ble VI Additional Family Court, Chennai in MP.No.639 of 2018 in M.C.No.93 of 2018 dated 24.10.2018 and set aside the same.

For Petitioner : Mr.A.G.Rajan

For respondents : Mr.K.R.Ramesh Kumar

O R D E R

This Criminal Revision has been filed to set aside the order dated 24.10.2018 passed in MP.No.639 of 2018 in M.C.No.93 of 2018 on the file of the VI Additional Family Court, Chennai.

2. The first respondent filed a petition for maintenance in MC.No.93 of 2018 before the VI Additional Family Court, in which, she has filed the petition in MP.No.639 of 2018 seeking interim maintenance. The Family Court, during the pendency of MC.No.93 of 2018 entertained the petition and awarded a sum of Rs.10,000/- to the first respondent/wife and Rs.5,000/- to the second respondent/minor child towards interim maintenance, against which, the husband has moved the present revision.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

4. Though the relationship is admitted, both the parties are disputing the income. The first respondent/wife filed a petition for restitution of conjugal rights and the same is pending. Both the parties are disputing the reason for separation and the income. In these circumstances, without ascertaining the reason for separation and also without ascertaining the sufficient means and neglect to maintain the wife and child, the VI Additional Family Court, Chennai, has passed the order of interim maintenance.

5. In the circumstances, the order of the VI Additional Family Court, Chennai in M.P.No.639 of 2018 in M.C.No.93 of 2018 is set aside. Since the case of this nature is only a summary proceedings, the VI Additional Family Court, Chennai is directed to dispose of the MC.No.93 of 2018, within a period of three months from the date of receipt of a copy of this order. Both the parties are directed to extend their fullest co-operation. Further, it is understood that the petitioner/husband filed the petition for divorce before the Family Court in HMOP No.3603 of 2017 and the first respondent/wife filed the petition for restitution of conjugal rights in OP.No.3529 of 2018 and both the petitions are pending. Admittedly, no petition was filed by wife under Section 24 of Hindu Marriage Act. Considering the said fact, the VI Additional Family Court, Chennai is directed to convert the petition from one under Section 125 Cr.P.C., to one under Section 24 of Hindu Marriage Act and dispose of the petition in accordance with law, within a period of three months from the date of receipt of a copy of this order.

6. With the above direction, this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kmi

To

1. The VI Additional Principal Judge (FAC)
VI Additional Family Court, Chennai.

+1cc to Mr.A.G.Rajan, Advocate, S.R.No.17085

+1cc to Mr.K.R.Ramesh Kumar, Advocate, S.R.No.18350

Cr1.R.C.No.1501 of 2018

MP (CO)

CS/01/03/2019