

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.395 of 2013
and M.P.No.1 of 2013
and Crl.M.P.No.4295 of 2018

V.Karthikeyan

..

Petitioner

Vs.

Bhavani

...

Respondent

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.,
to set aside the order dated 07.12.2012 passed in M.C.No.25 of
2009 on the file of the Judicial Magistrate Court, Tambaram.

For Petitioner : Mr.M.Saravanakumar

For Respondent : Mr.S.Kanmani Annamalai

O R D E R

This criminal revision has been filed seeking to set aside
the order dated 07.12.2012 passed in M.C.No.25 of 2009 on the
file of the Judicial Magistrate Court, Tambaram.

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

3. Bhavani got married to Karthikeyan on 02.03.2006 and
after marriage, she lived with him in the matrimonial home at
Perungalathur. On the allegation that cruelty was inflicted on
her by Karthikeyan and his parents, Bhavani went to her natal
home to live with her parents.

4. Thereafter, Bhavani initiated a case in M.C.No.25 of 2009
under Section 125 Cr.P.C. before the Judicial Magistrate,
Tambaram, against Karthikeyan, for maintenance. Karthikeyan
entered appearance and contested the case.

5. Before the trial Court, Bhavani examined herself - PW1
and Vasu Rao - PW2 to show that Karthikeyan was employed as
Senior Analysing Developer in Shipnet Software Solutions Private
Limited, Chennai and was drawing a sum of Rs.98,096/- per month
and marked six exhibits.

6. Before the trial Court, Karthikeyan examined himself as RW1 and marked one exhibit (Appointment Order).

7. After considering the evidence on record and hearing either side, the trial Court, by order dated 07.12.2012 in M.C.No.25 of 2009, returned a finding that Karthikeyan had failed and neglected to maintain Bhavani and directed him to pay a sum of Rs.10,000/- per month towards maintenance and Rs.15,000/- per year towards clothes and medical expenses, from 10.07.2009 (date of petition).

8. Challenging the above order, Karthikeyan has filed the present revision invoking Section 397 r/w 401 Cr.P.C. before this Court.

9. Heard Mr.M.Saravanakumar, learned counsel for Karthikeyan and Mr.S.Kanmani Annamalai, learned counsel for Bhavani.

10. The learned counsel for Karthikeyan submitted that Karthikeyan had lived for only three months with Bhavani; Bhavani is a post graduate in M.Sc. (Mathematics) and also gainfully employed. He further submitted that Karthikeyan has filed an application for restitution of conjugal rights and the same is pending.

11. Per contra, the learned counsel for Bhavani refuted the submissions made by the learned counsel for Karthikeyan.

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

13. Before the trial Court, Karthikeyan took a stand that there was no cohabitation at all, whereas, Bhavani, in her evidence, has stated that she got conceived and the foetus got aborted because of the tension she underwent at the hands of her husband. Therefore, the contention of Karthikeyan that there was no consummation of marriage, stood belied.

14. Karthikeyan took a further stand that he did not inflict any cruelty on Bhavani nor failed and neglected to maintain her. A complete reading of the evidence of Karthikeyan shows that he initially filed a petition for restitution of conjugal rights, withdrew the said petition and filed a petition for divorce against Bhavani.

15. It is the consistent case of Bhavani that she was from a poor family and her parents were not able to meet the demand of more dowry by Karthikeyan and his parents.

16. Karthikeyan took another stand that he was drawing only a sum of Rs.8,000/- per month, whereas, Bhavani examined Vasu Rao (PW2) and marked Ex-R4 to show that Karthikeyan was drawing a monthly salary of Rs.98,096/-.

17. Karthikeyan also took a stand that he had to maintain his parents, whereas, Bhavani marked Exs-P5 and P6 to show that Karthikeyan's father had retired from Government Service and is a Government Pensioner.

18. Karthikeyan, in his counter affidavit, had taken a plea that Bhavani was a devotee of Shiva and refused to share the bed with him. This stand of Karthikeyan was proved wrong as Bhavani established that she got conceived and the foetus got aborted.

19. The trial Court had taken into consideration all these aspects to conclude that Karthikeyan had failed and neglected to maintain Bhavani and that he has sufficient financial means to pay a sum of Rs.10,000/- per month, as his salary was Rs.98,096/- per month.

20. Under such circumstances, this Court does not find any infirmity in the order passed by the Court below, warranting interference. However, interests of justice will be served if the sum of Rs.15,000/- per year to be paid towards clothes and medical expenses is reduced to Rs.5,000/- per year and it is ordered accordingly.

In the result, this criminal revision is partly allowed. Connected M.Ps. are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Judicial Magistrate, Tambaram.

2. The Section Officer, Criminal Side, High Court, Madras

+1cc to Mr.M.Saravanakumar , Advocate SR.No. 800

+1cc to Mr.S.Kanmani , Advocate SR.No. 722

Cr1.R.C.No.395 of 2013

A.SK(07/02/2020)