

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6679 of 2020 and
Crl.M.P No.3679 of 2020

Iyyappan,
S/o.Munusamy
Jadayanur Village & Post
Vaniyambadi Taluk
Vellore District. Petitioner /Respondent

Vs

Minor Kanishka
D/o Iyyappan
rep by her mother
Sathiya
D/o.Duraisamy
25/16, HanJerntha Upasagar Street
Tirupattur
Vellore District. Respondent/Petitioner

Prayer:Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent to call for the records in the order dated 29.07.2019 made in Crl.Rev.Pet.No.4 of 2018 on the file of the III Additional Sessions Court, Vellore at Tirupattur, Vellore District confirming the order dated 28.02.2017 made in M.C No.10 of 2013 on the file of the Judicial Magistrate No.I, Tirupattur, Vellore District and set aside the same.

For Petitioner : Mr.V.Jeevagiridharan

For Respondent : No Appearance

ORDER

This Criminal Original Petition has been filed challenging the order dated 29.07.2019 on the file of the III Additional Sessions Court, Vellore at Tirupattur, Vellore District confirming the order dated 28.02.2017 made in M.C No.10 of 2013 on the file of the Judicial Magistrate No.I, Tirupattur, Vellore District.

2. The learned counsel for the petitioner would submit that the petitioner got married with the respondent on

17.04.2005 and due to their wedlock, they have also gave birth to the female child on 16.06.2006. Thereafter, after the birth of the child, the respondent was not living with the petitioner and there was a quarrel and as such, she left the matrimonial home. Thereafter, the respondent was constrained to file a petition for divorce in HMOP No. 15 of 2009 on the file of the Sub Court, Tirupattur. Even after the receipt of the notice, the petitioner did not appear before the trial Court and as such, he was set exparte and an exparte decree was granted in favour of the respondent. Thereafter, the respondent filed a petition under Section 125 of Cr.P.C claiming maintenance for a sum of Rs.10,000/- for the respondents in M.C No.3 of 2011 and the minor child also filed a petition in M.C No.10 of 2013 for a sum of Rs.10,000/-. Without considering the evidence let in by the petitioner, the learned Magistrate ordered maintenance of Rs.3,000/- against the petitioner payable to the respondent by an order dated 28.02.2017. Aggrieved by the same, the petitioner filed Criminal Revision Petition No.4 of 2018 before the III Additional Sessions Court, Vellore Court and the same was also dismissed confirming the order passed by the trial Court. He further submitted that though the petitioner initially conducted the business of wholesale medicine shop, after the marriage, he closed down the business and he is not earning anything right now. In fact, he has already incarcerated imprisonment for non-payment of maintenance as ordered by the Court below. Therefore, he sought for setting aside the order passed by the Court below.

3.Heard Mr.V.Jeevagiridharan, learned counsel appearing for the petitioner.

4. On a perusal of records, it is seen that the petitioner got married the respondent on 17.04.2005 and gave birth to a female child and thereafter, due to strained relationship between them, the respondent was driven out from the matrimonial home. While being so, the respondent has also filed a divorce petition in HMOP No.15 of 2009 and the same was decreed in favour of her. Since the petitioner did not appear before the trial Court, he was set exparte. Thereafter, the respondent filed a maintenance case in M.C No.3 of 2011 before the trial Court. The petitioner while let in evidence admitted that he has conducted wholesale business of medicine and thereafter, it was closed. There is no evidence produced by the petitioner herein and as such the trial Court has rightly awarded Rs.4,000/- as maintenance payable by the petitioner to the respondent herein. The maintenance amount of Rs.4,000/- is a very meagre amount and admittedly, the respondent did not have any job to look after herself and the minor child. Thereafter, the respondent herein also filed a maintenance petition in M.C No.10 of 2013 and the same was also ordered and the petitioner was directed to pay Rs.3,000/-

per month as maintenance to the daughter of the respondent herein. Aggrieved by the same, the petitioner preferred a revision and the revisional Court also rightly dismissed the petition. Already the revision petition filed by the petitioner was dismissed, challenging both the orders, this petition has been filed before this Court which is nothing but amount to second revision. That apart, this Court does not find any illegality or infirmity in the order passed by the Courts below and therefore, this petition is devoid of merits.

5. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The III Additional Sessions Court,
Vellore at Tirupattur, Vellore District
2. The Judicial Magistrate No. I,
Tirupattur.

CrI.O.P.No.6679 of 2020
and CrI.M.P No.3679 of 2020

RJI (CO)
CB(29/09/2020)

सत्यमेव जयते

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