

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

CRL.R.C.NO.448 OF 2018

G.Kumari .. Petitioner

Vs

D.Gurunathan .. Respondent

Prayer:-

Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. praying to set aside the order dated 19.12.2017 passed by the Family Court, Chengalpattu in F.C.M.C.No.05/2017.

For Petitioner : No appearance

For Respondent : Mr.B.Mohan

ORDER

Challenging the order dated 19.12.2017 passed by the learned Judge, Family Court, Chengalpattu, in F.C.M.C.No.05/2017, the petitioner/wife has come forward with this Criminal Revision.

2.The facts of the case are that the marriage between the petitioner and the respondent was held on 17.02.1978 as per Hindu rites and customs at Thuluva Vellalar Thirumanamandapam, Arakkonam. Out of the said wedlock, four children were born to them and they are now major and no one take care of the petitioner. Due to dispute arose between the parties, the respondent is living away from the petitioner, from 2012 onwards. Finding no means to maintain herself, the petitioner filed FC.MC No.5/2017 against the respondent seeking maintenance of Rs.20,000/- per month, besides claiming Rs.10,000/- per annum towards clothing and medical expenses and Rs.20,000/- towards litigation expenses. After contest, the Family Court dismissed the said maintenance case, vide order dated 19.12.2017, which is impugned herein.

3. There is no representation for the petitioner either in person or through her learned counsel on the previous hearing i.e., on 28.01.2020 as well as today's hearing. However, considering the nature of the issue involved herein, this Court is inclined to proceed with this case on merits.

4. It is stated by the petitioner in this Criminal Revision that the respondent worked in Southern Railways and earned good salary and he retired from service on 18.10.2010; at that time, he received retiral benefits of Rs.15,00,000/-; he is receiving a pension of Rs.25,000/- per month and also collecting rental income in his property at Rs.25,000/- per month, whereas the petitioner is unemployed and is depending on the respondent for her basic needs and requirements. However, without considering the said aspects, the Family Court has erred in dismissing the maintenance case filed by the petitioner. Hence, the petitioner prayed to set aside the said order and direct the respondent to pay a reasonable sum as maintenance.

5. Per contra, the learned counsel for the respondent submitted that the petitioner is residing in the property that was purchased by the respondent; the respondent had paid some amounts to the petitioner on various occasions; and hence, she is having sufficient means to maintain herself, whereas the respondent is earning a pension of Rs.15,000/- and is affected by paralytic stroke and he is under continuous medical treatment. The learned counsel further submitted that after receiving substantial amount from the respondent, the petitioner has filed the maintenance case only with an intention to harass him. Thus, according to the learned counsel, the Family Court, after having detailed analysis of the pleadings and the materials placed before it, has rightly dismissed the maintenance case and the same does not call for any interference by this Court.

6. This Court considered the submissions made by the learned counsel for the respondent and perused the materials available on record.

7. A perusal of the order impugned herein would reveal that the petitioner as P.W.1 has categorically admitted in her cross examination that she received some amount from the respondent on various occasions and she is living in the property that was purchased by the respondent. After meticulously and thoroughly examining the financial status of the parties and other aspects and also take note of the decisions relied on by the parties, the Family Court has rightly found that the petitioner has sufficient means to maintain herself, whereas the respondent is earning a meagre sum as pension, by which he is unable to lead his normal life and meet out his medical expenses, and

ultimately dismissed the maintenance case filed by the petitioner. This Court finds no infirmity or illegality in the order so passed by the Family Court.

8.Hence, this Criminal Revision deserves to be dismissed and is accordingly, dismissed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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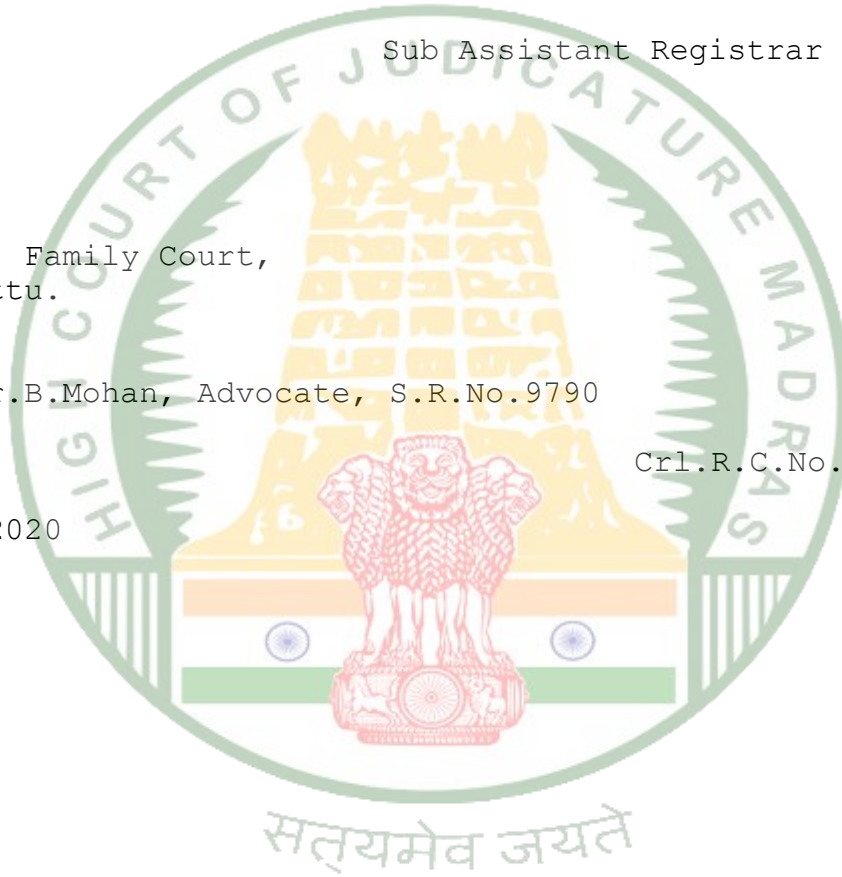
To

The Judge, Family Court,
Chengalpattu.

+1cc to Mr.B.Mohan, Advocate, S.R.No.9790

CrI.R.C.No.448 of 2018

MP(CO)
CS/28/05/2020



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