

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2020

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6428 of 2020 and
Crl.M.P.Nos.3559 and 3560 of 2020

Saravanan

... Petitioner

Vs.

1.S.Sathya

2.Minor A.Abinaya

... Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to set aside the order passed in Crl.R.C.No.5 of 2018 dated 26.02.2019 by the Hon'ble District Cum Sessions Court, Thiruvarur District against in M.C.No.28 of 2016 dated 20.06.2018 by the Judicial Magistrate No.2, Mannargudi, Thiruvarur District.

For Petitioner : Mr.K.Anbuselvan

For Respondents : No Appearance

O R D E R

This petition has been filed to to set aside the order passed in Crl.R.C.No.5 of 2018 dated 26.02.2019 by the Hon'ble District Cum Sessions Court, Thiruvarur District against in M.C.No.28 of 2016 dated 20.06.2018 by the Judicial Magistrate No.2, Mannargudi, Thiruvarur District.

2. The learned counsel for the petitioner would submit that the petitioner was working as a driver and he got married the 1st respondent on 14.09.2003 as per Hindu rites and customs. Due to their wedlock, they gave birth to the female child / 2nd respondent herein on 02.11.2006. Thereafter, due to mis-understanding between the petitioner and the 1st respondent, there was a strained relationship between them and as such, the 1st respondent along with the 2nd respondent went out of the matrimonial home. Immediately, the petitioner has filed petition for restitution of conjugal rights in O.P No.35 of 2007. Though the 1st respondent received notice, she did not appear before the trial court and therefore, ex-parte order was passed against the 1st respondent. Even then, the 1st respondent/wife did not come forward to live with the petitioner instead of that she filed maintenance case in

M.C.No.28 of 2016 on the file of the Judicial Magistrate, No.2, Thiruvarur.

3. The trial court awarded maintenance for a sum of Rs.3,000/- to the 1st respondent and Rs.2,000/- to the 2nd respondent to be payable by the petitioner herein. Aggrieved by the same, the petitioner preferred Criminal Revision Case in CrI.R.C.No.5 of 2018. The First Revisional Court reduced the maintenance amount from Rs.5,000/- to Rs.4,000/- to be payable by the petitioner to the respondents herein.

4. Now, the petitioner being the driver he could not able to arrange the funds to pay the respondents as maintenance.

5. On perusal of the records, the trial court examined PW1 and PW2 and also marked Exs.D1 to D3 and after appreciating the evidence, the trial court found that the petitioner admitted that he was working as a driver and earning a sum of Rs.6,000/- per month.

6. Considering the facts and circumstances of the case, the revisional court reduces the maintenance amount from Rs.5,000/- to Rs.4,000/-. Therefore, the Court below has rightly ordered maintenance as against the petitioner. Since the 2nd respondent is the minor child, this Court also finds there is no illegality or infirmity in the order passed by the court below.

7. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssn

To

1. The District Cum Sessions Judge,
Thiruvarur District.
2. The Judicial Magistrate No.2,
Mannargudi,
Thiruvarur District.
3. Do-Thro' The Chief Judicial Magistrate,
Thiruvarur.

4.The Public Prosecutor,
High Court, Madras.

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KK(CO)
CB(12/10/2020)



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