

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.R.C.No.658 of 2018

and

Crl.M.P.No.7586 of 2018

Koppadi Bakta Markandeyulu

..

Petitioner

Vs

Koppadi Sri Lakshmi

...

Respondent

Prayer:- Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. praying to set aside the order dated 02.04.2018 passed in Crl.M.P.No.362 of 2017 in M.C.No.4 of 2008 by the Judicial Magistrate, Yanam.

For Petitioner

: Mr.K.Balasubramaniam

For Respondent

: No appearance

ORDER

The petitioner is the husband and the respondent is the wife. Due to a matrimonial dispute between the parties, they got separated. The respondent filed a petition for maintenance in MC.No.4 of 2008, which was allowed by the learned Judicial Magistrate, Yanam, directing the petitioner to pay a sum of Rs.1,000/- per month. She preferred a revision petition in Crl.MP.No.1189 of 2011 before the II Additional District Judge, Puducherry and the said petition was allowed, enhancing the maintenance amount from Rs.1,000/- to Rs.2,000/- per month. Thereafter, she filed a petition in Cr.MP.No.362 of 2017 in MC.No.4 of 2008 seeking further enhancement of the maintenance amount to Rs.10,000/- per month. By order dated 02.04.2018, the learned Judicial Magistrate, Yanam, directed the petitioner to pay a monthly maintenance of Rs.5,000/- to the respondent. Feeling aggrieved, the petitioner has preferred this Criminal Revision before this Court.

2. Heard the learned counsel for the petitioner and perused the materials placed before this Court. There is no representation for the respondent.

3. The learned counsel for petitioner has submitted that the petitioner filed OP.No.7 of 2009 for restitution of conjugal rights, which was allowed vide order dated 21.12.2009. However, the respondent did not join with the petitioner and she filed OP.No.48 of 2010 seeking divorce, which was allowed vide order dated 19.07.2012. Since the respondent, without any sufficient reason, refused to live with her husband, she is not entitled for maintenance as per Section 125(5) Cr.P.C.

4. On 08.06.2018, this Court, while admitting this Criminal Revision, has granted an order of interim stay on condition that the petitioner shall continue to pay a sum of Rs.2,000/ to the respondent on or before 5th of every succeeding English calendar month.

5. On a careful perusal of the materials available on record, it is evident that despite the order passed in OP.No.7/2009 filed by the petitioner seeking restitution of conjugal rights, the respondent had not joined with him and got an divorce order. As such, she voluntarily deserted the petitioner and refused to live with him, without any sufficient cause. Such being the factual position, the respondent is not entitled for maintenance, in terms of Section 125(5) Cr.P.C. Hence, this Court is inclined to set aside the order impugned herein.

6. Accordingly, this Criminal Revision stands allowed by setting aside the order dated 02.04.2018 passed by the Judicial Magistrate, Yanam. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
The Judicial Magistrate, Yanam

Copy to
The Section officer
Criminal Section, High Court, Madras 104.

+1 CC to Mr.K.Balasubramaniam, Advocate sr 11588

Cr1.R.C.No.658 of 2018

SP(30/05/2020)