

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2020

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN

Criminal Revision Case No.1214 of 2017

1. S.Kavitha

2. Daniel Akash Vincent

Rep. By his mother Kavitha / 1st petitioner

... Petitioners

Vs.

G.Renald Vincent

... Respondent

Criminal Revision Case filed under Section 397 read with Section 401 Cr.P.C., to call for the records and to set-aside the order made in M.C.No.84 of 2010, dated 20.01.2017 on the file of the Principal Family Judge, Coimbatore.

For Petitioners: Mr. K.S.Karthik Raja

For Respondent : M/s. J.C.Associates

O R D E R

Being dis-satisfied with the maintenance awarded by the Principal Family Court, Coimbatore, at Rs.7,000/- per month, (Rs.2,000/- to the first petitioner and Rs.5,000/- to the second petitioner), in M.C.No.84 of 2010, dated 20.01.2017, this Criminal Revision Case has been filed by the petitioners.

2. Heard both sides.

3. It is the case of the petitioners that the first petitioner and the respondent got married on 05.02.2005. Thereafter, the second petitioner was born, out of their wedlock. Subsequently, dispute aroused between the respondent's family and the first petitioner. Thus, the petitioners were forced to leave the matrimonial home. Thereafter, they filed a petition for maintenance (M.C.No.84 of 2010). Pending the same, the respondent filed a petition for divorce (D.O.P.No.1085 of 2011) and the first petitioner filed a petition for restitution of conjugal rights (D.O.P.No.1178 of 2011). All the cases were

tried together and a common order was passed on 20.01.2017. Aggrieved over the order passed in the Maintenance Case, this Criminal Revision Case has been filed by the petitioner.

4. The attack of impugned order of maintenance by the petitioners is that: (i) the court below failed to see that the respondent has demanded dowry, harassed, ill-treated and threatened the petitioners' life on 28.10.2009 for which a Panchayat was effected and the respondent has refused to take the first petitioner back along with her minor son, instead demanded Rs.2,00,000/- as dowry; (ii) the court below failed to see that the demand was not able to meet out by the parents of the first petitioner and when she had gone to the matrimonial home, she was driven out and as such preferred a complaint against the respondent on 17.11.2009 and subsequently, the petitioner has filed petition for Restitution of Conjugal Rights; (iii) the Court below failed to see that the respondent had failed to maintain the first petitioner and her son, but instead he is leading a luxurious life, by earning more than Rs.50,000/- per month; and (iv) the Court below failed to see that the respondent is also an assessee of income tax and hence his income and earning capacity was established by the petitioners.

5. Per contra, the learned counsel for the respondent submitted that the Court below has analysed the contentions raised by both parties, in detail and based on evidence on record has rendered its findings, which do not require any interference by this Court.

6. As far as the first and second contentions raised by the learned counsel for the petitioners are concerned, the same were raised even before the Court below and the Court has framed the same as issue No.3 and had answered in negative, which cannot be re-appreciated once-again by this Court.

7. The third and fourth contentions raised by the learned counsel for the petitioners have also been answered in paragraphs 30 and 31 of its order, wherein the Court below has discussed in detail about the cross-examination of the respondent and held that the petitioners herein have failed to prove that the respondent had not closed his ITI institute, whereas the respondent had proved that his institute was closed and ultimately, awarded a sum of Rs.7,000/- per month to the petitioners. In the absence of any oral or documentary evidence adduced by the petitioners herein to prove that the respondent is owning movable or immovable properties, the quantum of maintenance ordered to the petitioners is just and reasonable. Hence, this court finds absolutely no reason whatsoever, to interfere with the order passed by the Court below.

8. In view of the above, the Criminal Revision Case deserves to be dismissed and is accordingly dismissed. The order of the Court below is affirmed. It is open to the petitioners to take steps for recovery of arrears of maintenance amount from the respondent.

Sd/-

Assistant Registrar

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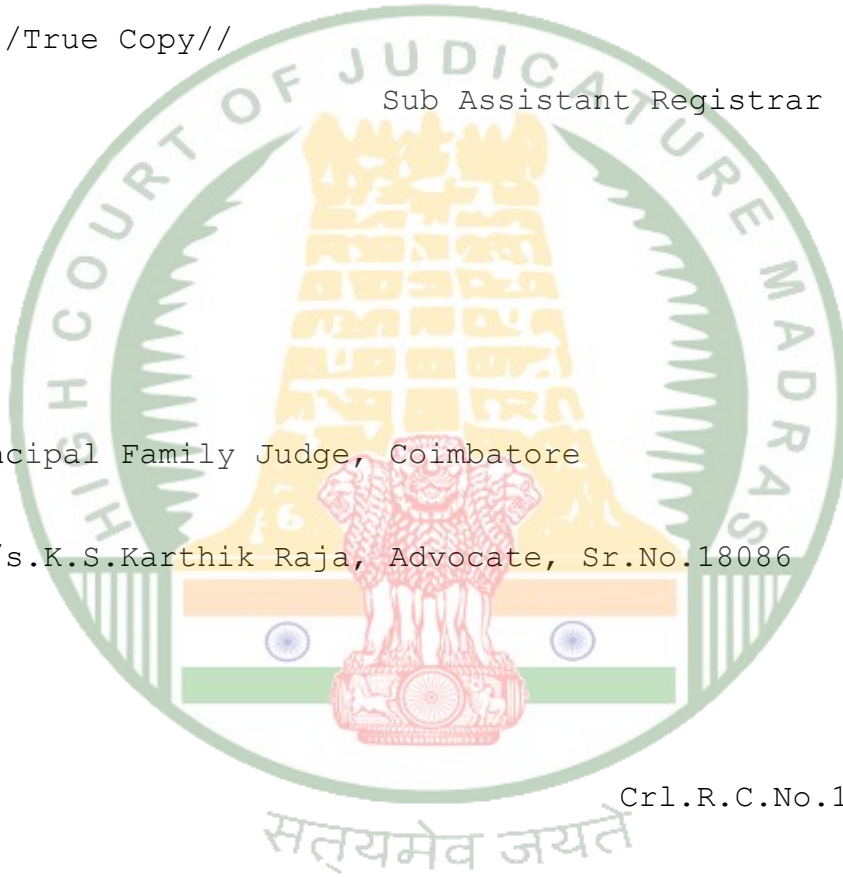
Sub Assistant Registrar

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To

1.The Principal Family Judge, Coimbatore

+1cc to M/s.K.S.Karthik Raja, Advocate, Sr.No.18086



Crl.R.C.No.1214 of 2017

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SAI (CO)
GS (29/05/2020)