



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 17.08.2020

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.207 of 2020

and

Crl.M.P.(MD)No.1827 of 2020

Ganeshan : Petitioner/Respondent

Vs.

Thangarani : Respondent/Petitioner

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to set aside the order passed by the learned Judicial Magistrate, Rajapalayam in M.C.No.4 of 2016 dated 21.11.2019.

For Petitioner : Mr.M.Jothibas

For Respondent : Mr.S.C.Herold Singh

ORDER

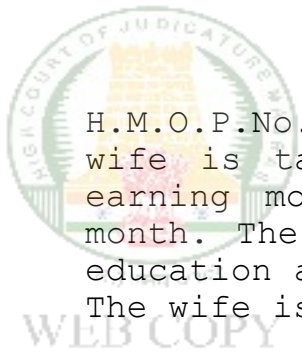
The petitioner is the husband and the respondent is the wife. The respondent wife has filed a petition in M.C.No.4 of 2016 before the learned Judicial Magistrate, Rajapalayam. The learned Judicial Magistrate has passed an order fixing the maintenance amount as Rs.10,000/- (Rupees Ten Thousand only) per month. Against which, the petitioner filed the present revision.

2.The brief substance of the petition in M.C.No.4 of 2016 is as follows:

The petitioner and the respondent got married on 20.05.2015. Due to some misunderstanding between the couple, the wife is residing with her parents and she prayed for a maintenance of Rs.15,000/- (Rupees Fifteen Thousand only) from the respondent.

3.The brief substance of the counter filed in M.C.No.4 of 2016 is as follows:

The wife aborted the child in the womb without the knowledge of the husband and when the same was questioned, the wife insulted the husband and in-laws and she lodged a false complaint against them. The husband filed a petition for dissolution of marriage in



H.M.O.P.No.152 of 2015 before the Sub Court, Srivilliputhur. The wife is taking tuition for 30 children in her house and she is earning more than Rs.30,000/- (Rupees Thirty Thousand only) per month. The husband has to repay the loan that he obtained for his education and for his marriage and he is residing in a rental house. The wife is educated and she can maintain herself.

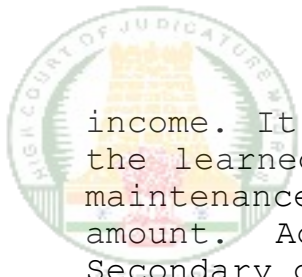
4.After hearing both sides, the learned Judicial Magistrate has passed an order fixing the maintenance as Rs.10,000/- (Rupees Ten Thousand only) per month. Against that order, the petitioner has preferred this revision on the following grounds:

The wife is not entitled to receive any amount towards maintenance, since she has deserted the husband without any valid reason. The wife is an M.Sc. B.Ed., graduate. She is taking tuition and earning sufficient income. The wife has lodged a criminal complaint before the All Women Police Station in Crime No.16 of 2015 under Section 498(A), 294(b), 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. On 23.04.2019, the learned Judicial Magistrate II has acquitted the petitioner in C.C.No.336 of 2015. The wife is living in her own house. The husband is only a secondary grade teacher. He has filed a petition for divorce before the Sub Court, Srivilliputhur in H.M.O.P.No.183 of 2019, which is still pending. The salary of the petitioner is only Rs.26,356/- (Rupees Twenty Six Thousand Three Hundred and Fifty Six only) and prayed the impugned order to be set aside.

5.On the side of the petitioner, it is stated that the criminal case filed against the petitioner ended in acquittal. The wife deserted the husband and she can maintain herself. The salary certificate was marked as Ex.P5. The salary of the husband is only Rs.26,356/- (Rupees Twenty Six Thousand Three Hundred and Fifty Six only) and the maintenance amount fixed by the learned Judicial Magistrate is exorbitant.

6.On the side of the respondent, it is stated that the petitioner has borrowed some amount to reduce the salary and the husband has not filed any document to prove that the wife is taking tuition and is earning Rs.30,000/- (Rupees Thirty Thousand only) per month. The husband has not deposited the arrears of maintenance amount so far. He has not paid even the monthly maintenance amount and she prayed that the impugned order passed by the learned Judicial Magistrate is to be upheld.

7.It is seen that the marriage between the petitioner and the respondent is not disputed. The wife has lodged a complaint against the respondent, which ended in acquittal. The husband filed a divorce petition, which is pending before the Sub Court, Srivilliputhur. The admitted salary of the petitioner is Rs.26,356/- (Rupees Twenty Six Thousand Three Hundred and Fifty Six only). The petitioner failed to prove that the wife is having sufficient



income. It is the duty of the husband to maintain the wife. Though the learned Judicial Magistrate has passed an order for payment of maintenance from 04.03.2016, the husband failed to deposit any amount. Admittedly the husband is working as the Government Secondary grade teacher.

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8. In the above circumstances, the order passed by the learned Judicial Magistrate is modified by fixing the maintenance amount as Rs.7,500/- (Rupees Seven Thousand and Five Hundred only). The petitioner is directed to deposit before the trial Court the arrears of maintenance within a period of three months from the date of receipt of copy of this order. The petitioner is directed to pay the monthly maintenance amount on or before fifth of every month.

9. With the above direction, this Criminal Revision Case is partly allowed. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Mrn

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

The Judicial Magistrate,
Rajapalayam.

+1 CC to Mr.M.JOTHI BASU, Advocate (SR-14296[F] dated 18/08/2020)

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17.08.2020

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