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CRL.O.P.(MD)NO10826 OF 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P.(MD)No.10826 of 2018 and

CRL.M.P.(MD)No.4876 of 2018

Muthu Kumar

... Petitioner/Petitioner/
Respondent

Vs.

1. M.Thangarathi
2. Minor M.Mithura Selvi
Represented by her mother and
natural Guardian 1st Respondent
here in

... Respondents/Respondents/
Petitioners

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records and set aside the order passed by the Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur in Crl. R.C.No.11 of 2015 on 01.03.2018 in confirming the order passed by the Judicial Magistrate Court, Sivakasi in M.C.No.21 of 2013 on 05.05.2015 and allow this criminal original petition.

For Petitioner : Mr.M.Jothibas

For Respondents : Mr.M.Ashok Kumar

O R D E R

The marriage between the petitioner and the first respondent took place on 06.12.2006. The second respondent is the daughter who was born through the wedlock. Thereafter, their relationship came under strain. The respondents filed M.C.No.21 of 2013 before the Judicial Magistrate, Sivakasi. The learned trial Magistrate by order dated 05.05.2015 directed the petitioner to pay a sum of Rs.3,000/- each to the respondents herein. Aggrieved by the same, the petitioner filed Crl.R.C.No.11 of 2015 before the Sessions Court. The learned Sessions Judge by the impugned order dated 01.03.2018 confirmed the same. Aggrieved by the said order, this criminal original petition has been filed.

2. The learned counsel appearing for the petitioner drew my attention to the decision of the Hon'ble Supreme Court reported in (2019) SAR (Civil) 1056(Kusum Bhatia V. Sagar Seithi). The proposition laid down in the aforesaid case is that if the wife is a working lady with sufficient salary, she is not entitled to any maintenance at the hands of the husband.



3. The petitioner's counsel would contend that the first respondent admitted that she is earning a sum of Rs.7,000/- to Rs.8,000/- per month.

4. Per contra the learned counsel appearing for the respondents submitted the impugned order does not warrant any interference.

5. After considering the rival contentions, I am of the view that there is no merit in this criminal original petition. It is seen that the learned trial Magistrate did deal with the contention now raised before me. Thereafter, the Court below has referred to a decision of the Hon'ble Supreme Court reported in CDJ 2014 SC 896. When both the Courts below had clearly dealt with this aspect of the matter, the question of interfering under Section 482 of Cr.P.C. will not arise. The statutory bar set out in Section 397(3) of Cr.P.C. cannot be overcome by taking recourse to Section 482 of Cr.P.C. The second respondent is the daughter of the petitioner. She is said to be studying in 6th standard. A sum of Rs.6,000/- per month was awarded only to the second respondent as maintenance. Even if the first respondent is said to be earning a sum of Rs.8,000/- per month, still it could not make much of a difference.

6. In this view of the matter, the impugned order stands confirmed. The criminal original petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To:

1. The Principal District and Sessions Judge,
Virudhunagar District at Srivilliputhur.

2. The Judicial Magistrate, Sivakasi.

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-9702[F] dated 03/03/2020)

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02.03.2020