

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.23 of 2021 and

Crl.M.P.No.320 of 2021

M.Hari ... Petitioner/Respondent

Vs.

P.Bhuvaneswari ... Respondent/Petitioner

PRAYER : Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C. to call for records of M.C.No.237 of 2018 on the file of VI Additional Family Court, Chennai and set aside the order passed by the learned VI Additional Judge, Family Court, Chennai passed on 2.3.2020 in M.C.No.237 of 2018.

For Petitioner : Mr.N.Suresh Kumar

O R D E R

This Criminal case has been filed challenging the order dated 02.03.2020 passed in M.C.No.237 of 2018 on the file of VI Additional Family Court, Chennai and to set aside the same.

2. The petitioner is the husband and the respondent is the wife. The respondent filed maintenance case in M.C.No.237 of 2018 before the learned VI Additional Family Court, Chennai. After enquiry, the learned Judge has awarded a sum of Rs.10,000/- per month as maintenance to the petitioner. Challenging the said order, the petitioner/husband is before this Court.

3. The learned counsel for the petitioner would submit that the respondent/wife left the matrimonial home with all the jewels and household articles without any valid reason and therefore, he filed a petition in O.P.No.2801 of 2017 for restitution of conjugal rights before the Family Court and after the dismissal of the same, the respondent/wife filed petition under Section 125 of Cr.P.C. seeking maintenance. He would further submit that the learned VI Additional Principal

Judge, without considering the fact that the respondent has means to maintain herself has awarded a sum of Rs.10,000/-per month to the respondent towards maintenance.

4. Heard the learned counsel for the petitioner. Perused the records.

5.The marriage between the parties are not in dispute and the fact that both the parties are living separately also not disputed. The respondent/wife has filed the petition under Section 125 Cr.P.C. before the VI Additional Family Court, Chennai seeking a sum of Rs.30,000/- per month as maintenance. The learned Judge after considering the fact that the petitioner is drawing a salary of Rs.60,000/- per month and respondent has no means to maintain herself, has awarded a sum of Rs.10,000/- per month to the petitioner as maintenance which is very reasonable. Though the learned counsel for the petitioner has stated that the respondent has got sufficient means to maintain herself, no documents have been filed to prove the same. It is well settled proposition of law that this Court while exercising the revisional jurisdiction, cannot sit in the arm chair of the Appellate Court and reappreciate the entire evidence. On a reading of entire materials on record, it is seen that the petitioner has not established that the respondent has got sufficient means to maintain herself, whereas the respondent established her case. This Court does not find any infirmity or illegality in the order passed by the Court below.

6. Under these circumstances, this Court finds no merit in this revision and the same is liable to be dismissed. However, the learned counsel for the petitioner would submit that he has filed matrimonial O.P. for divorce before the Family Court alleging that the respondent/wife left matrimonial home without any reason. As the said O.P. is pending before the competent court, this court at this stage is not expressing any opinion regarding this issue. It is made clear that in case the petitioner succeeded in the said O.P., he can file the petition for modification and therefore that till the disposal of the divorce proceedings, the petitioner is liable to pay a sum of Rs.10,000/- per month as directed by the VI Additional Principal Court, Chennai.

Accordingly, this Criminal Revision is dismissed with the above direction. Consequently, connected Miscellaneous Petition is closed.

Sd/- (CCC)

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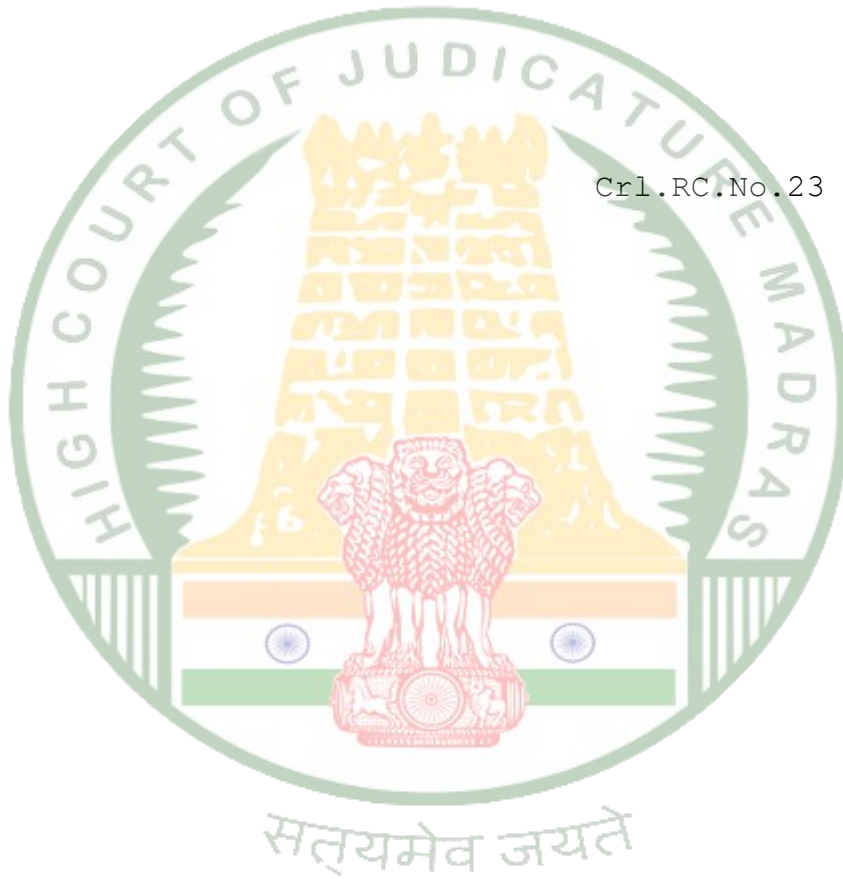
Sub Assistant Registrar

To

1. The Judge,
VI Additional Family Court,
Chennai

AD(CO)
SM/15/02/2021

Crl.RC.No.23 of 2021



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