

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2021

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.45 of 2021
and Crl.M.P.No.732 of 2021

C.Ramesh
S/o.Chinnadurai

... Petitioner

Vs.

1. R.Madhu Malar
D/o.Ponnudsmey

2. Master Deepak Sharwin
Rep by his mother and natural guardian
Ms.R.Madhu Malar
S/o.Ramesh

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 r/w. 401 of Cr.P.C. to set aside the order in M.P.No.609 of 2019 in M.C.No.90 of 2019 dated 01.07.2020 passed by the Hon'ble V Additional Principal Family Court, Chennai.

For Petitioner : Mr.K.Velayutham Raja

O R D E R

The petitioner is the husband and the 1st respondent is the wife and the 2nd respondent is the minor son aged about 4 years. The marriage was solemnized between the petitioner and the 1st respondent on 25.10.2020. Out of their wedlock they are blessed with a male baby, the 2nd respondent herein namely Master Deepak Sharwin. Subsequently, due to misunderstanding the petitioner and the 1st respondent are living separately.

2. According to the learned counsel for the respondents, the petitioner caused cruelty towards the 1st respondent and she tolerated all his immoral activities of the petitioner herein and further she was thrown away from the matrimonial home and therefore, she left the matrimonial home and now she is living separately with his minor son.

3. The learned counsel for the petitioner would submit that the 1st respondent left the matrimonial home voluntarily

without any valid reason and also the petitioner has filed a petition in H.M.O.P. under Section 9 of the Hindu Marriage Act, 1955, for Restitution of Conjugal Rights and the same is pending. During the pendency of the said H.M.O.P., the 1st respondent has not co-operated for enquiry and not willing to join with the petitioner. The 1st respondent filed the case for maintenance in M.C.No.90 of 2019 before the V Additional Family Court, Chennai. The Judge, Family Court, after enquiry passed the interim maintenance directing the petitioner herein to pay a sum of Rs.20,000/- to the 1st respondent herein and Rs.10,000/- to the 2nd respondent minor son. Aggrieved over the same, the petitioner has filed the present revision before this Court.

4. The marriage between the parties is not in dispute, the relationship of the parties is not in dispute and the paternity of the minor son is also not in dispute. The petitioner is working in the private company and earning salary for a sum of Rs.75,000/- per month, which is also not in dispute.

5. According to the learned counsel for the petitioner, the 1st respondent left the matrimonial home voluntarily without any reason. Therefore, she is not entitled for maintenance. However, the petitioner submits that the petitioner is working in a private company and getting a salary of Rs.75,000/-, he purchased the house in the name of the 1st respondent and therefore, he is not liable to pay any maintenance. The learned Judge, Family Court, failed to consider these aspects and ordered interim maintenance for a sum of Rs.20,000/- to the 1st respondent and Rs.10,000/- to the 2nd respondent. Therefore, this petition is liable to be dismissed.

6. Heard and perused the records.

7. Since the marriage is not in dispute the earning capacity of the petitioner is also not in dispute. The 1st respondent has clearly stated that she is unable to maintain herself and her minor son and the petitioner not proved that the 1st respondent is a earning member and can maintain herself and therefore, under Section 125 Cr.P.C. if the wife is unable to maintain herself, the husband is liable to pay interim maintenance. The 2nd respondent is only a minor son and therefore, under these circumstances considering the economic status of the petitioner, he is liable to maintain the wife and the minor children who are unable to maintain themselves. Under these circumstances, this Court does not find any perversity in the order passed by the Judge, Family Court, Chennai. There is no merit in the revision.

8. This Criminal Revision Case is dismissed in the admission stage itself. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

bri

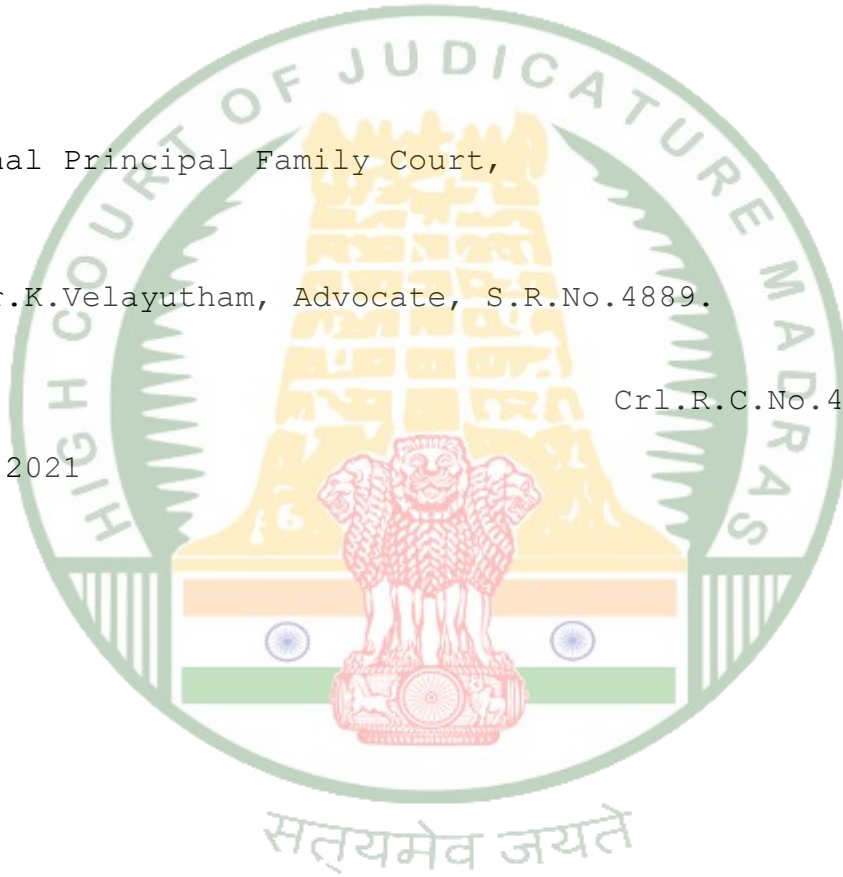
To

The Judge,
V Additional Principal Family Court,
Chennai.

+lcc to Mr.K.Velayutham, Advocate, S.R.No.4889.

Cr1.R.C.No.45 of 2021

SSI(CO)
CSR 17.03.2021



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