

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.143 of 2020  
and

Crl.Mp.No.1001 of 2020

G.Seenivasan ... Petitioner

Versus

1.Mrs.Palaniselvi

2.Minor Thatvika @ Buvaneswari ... Respondents

Criminal Revision Case filed under Section 397 read with 401 Criminal Procedure Code, to set aside the Judgment dated 18.11.2019, made in M.C. No. 34 of 2019 on the file of the Family Court, Krishnagiri and allow the criminal revision.

For Petitioner : Mr.D.Rameshkumar

For Respondents: Mr.Sathish,  
for Mr.T.Sundaravadanam

O R D E R

This Criminal Revision Case has been filed to set aside the impugned order, dated 18.11.2019 passed in M.C. No. 34 of 2019 on the file of the Family Court, Krishnagiri.

2.The petitioner is the husband and the first respondent is the wife. The second respondent is the minor daughter born to the petitioner and the first respondent.

3.The first respondent filed a petition before the Family Court at Krishnagiri for maintenance in M.C.No.34 of 2019. The Family Court, after enquiry, ordered a sum of Rs.7,000 /- towards maintenance for the wife and a sum of Rs. 15,000/- towards the second respondent/minor daughter. Now challenging the order of the Family Court, Krishnagiri, the petitioner/husband filed this revision petition before this court.

4.The learned counsel for the petitioner would submit that the first respondent/wife left the matrimonial house and she was living with her parents. Even she did not attend the death ceremony of petitioner's mother to pay her last rites. Even though, the petitioner has taken effective steps to bring his wife, she refused to come back. The first respondent all along lives with her parents, still the petitioner is spending for the expenses for her maintenance and for education of his minor daughter every year. The Family Court failed to consider that he is suffering very much from the desertion of the first respondent and the demise of his mother. Moreover, he has no income to pay such maintenance amount to the respondents. The house where the petitioner resides stands in the name of his mother. The petitioner is having two sisters, all are having share in the said house. There is no means to pay the maintenance. The learned judge simply ordered a sum of Rs.7,000/- for first respondent and Rs. 15,000/- as maintenance for the second respondent, therefore it warrants to interfere.

5.The learned counsel for the respondents would submit that after the marriage, the petitioner lived with some other lady and also caused cruelty towards the first respondent/wife. Even the husband of the lady with whom the petitioner is having illegal intimacy filed a petition in O.P No. 83 of 2018 before the sub court, Krishnagiri in which the petitioner was impleaded as one of the respondents. Further, O.P No 141 of 2019 was filed by that lady which is pending before the Family Court, Krishnagiri. In that case also, the Petitioner/husband was impleaded as one of the respondents. Since the first respondent/wife left the matrimonial house with valid reasons, the Family Court considering all these facts and also the fact that petitioner has sufficient means and immovable property ordered the maintenance Rs.7,000/- and Rs.15,000/-. Therefore the order passed by the Family Court is well reasoned, and no need to interfere.

6.On a perusal of the records, it is seen that the marriage was solemnized on 11.06.2003. Out of the Wedlock the first respondent gave birth to a female child who is the second respondent. Thereafter, the first respondent was living all along with her parents house. According to the petitioner, the first respondent left the matrimonial house without any valid reason, inspite of the best effort taken by him, the first respondent did not turn up to her matrimonial home. Even she did not attend the funeral ceremony of his mother. According to the first respondent, the petitioner has illegal intimacy with another lady, caused mental cruelty to her and the Family Court considering the oral and documentary evidences rightly awarded maintenance.

7. On reading of the order, it is evident that the trial court appreciated the entire evidence and held that though the petitioner has taken effective steps to bring his wife to the matrimonial house, he has not sent any notice or he has filed a Petition for restitution of conjugal rights to bring the respondents to the matrimonial home. In the absence of the same, the claim of the petitioner cannot be accepted. The first respondent has stated that the petitioner is having illegal intimacy with yet another lady. The husband of that lady filed Original Petition for divorce in which, the petitioner was shown as one of the respondents. The petitioner has not denied it by examining any contra evidence. Therefore, under these circumstances, the Family Court has decided that the first respondent left the matrimonial home with valid reasons. The Family Court also concluded that the petitioner/husband is having sufficient means to pay maintenance. The Trial court has also considered that as per the decision rendered by the Hon'ble Supreme Court, in the case of maintenance, the husband has to file the proof showing his income. In this case admittedly, such affidavit of proof to show his property and income was not filed by the petitioner. Therefore, under these circumstances, the trial court rightly ordered maintenance of Rs.7,000/- to the wife and Rs.15,000/- to the minor daughter. The petitioner also not proved that the first respondent has sufficient means to maintain herself. The first respondent has also filed counter affidavit stating that she has no means to maintain herself and the minor daughter.

8. This Court is only a Revisional Court and the Family Court considered all the issues on the basis of evidence, which cannot be interfered with in exercise of Revisional Jurisdiction. This Court does not see any perversity in appreciation of the evidence. There is no merit in the revision petition. Accordingly, the revision petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

klt  
To

The Family Court,  
Krishnagiri.

+lcc to Mr.D.Ramesh Kumar, Advocate Sr.21352  
+lcc to Mr.T.Sundaravadanam, Advocate Sr.21696

Cr1.R.C.No.143 of 2020  
and  
Cr1.Mp.No.1001 of 2020

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