

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2021

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.116 of 2021 and
Crl.M.P.No.2324 of 2021

A.T.R.Kumar

... Petitioner/Respondent

Vs.

1.Smt.K.Karpagam

2.Minor K.Rakesh Raj,

Rep. by Natural Guardian its mother Smt.Karpagam
Both residing at door no.231 Bhajanai Kovil Street,
Kizharasampattu Village and Post,
Vellore Taluk and District. ... Respondents/Petitioners

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order dated 07.12.2020 passed in FCMC No.12 of 2016 by the learned Family Court Judge Vellore and to allow the above criminal revision petition.

For Petitioner : Mr.V.Perumal

ORDER

The petitioner is the husband and the 1st respondent is his wife and 2nd respondent is his minor son. The respondents have a filed a petition under Section 125(1)(A) of Cr.P.C., in F.C.M.C.No.12 of 2016 for monthly maintenance. The learned Judge, Family Court, Vellore, by order, dated 07.12.2020, allowed the petition and directed the petitioner to pay monthly maintenance of Rs.10,000/- each to the respondents. Challenging the same, the present criminal revision has been filed.

2.The learned counsel for the petitioner would submit that the 1st respondent/wife voluntarily left the matrimonial house without any valid reason and therefore, she is not entitled for monthly maintenance. The learned counsel would further submit that the respondents failed to produce any documentary evidence to prove the income of the petitioner and the learned Judge without considering the same, passed the order of monthly maintenance mechanically.

3.Heard the learned counsel for the petitioner and the perused the materials available on record.

4.The 1st respondent/wife has stated in the petition that her husband/petitioner herein demanded dowry and subjected her to cruelty. Further, the 1st respondent made allegations that the petitioner was having illegal intimacy with other girls and hence, she left the matrimonial house. After she given birth to a child, the petitioner did not visit wife and child at any point of time.

5.It is seen that the marriage between the petitioner and the 1st respondent is not in dispute, the paternity of the child is also not in dispute and the income of the petitioner is also not in dispute. The learned counsel for the petitioner would submit that the respondent left the matrimonial home without any valid reason, whereas the petitioner has filed a divorce petition in H.M.O.P.No.105 of 2004 before the learned Subordinate Judge, Vellore and subsequently, it was dismissed for default, since he was not taken any steps to proceed with the case. The petitioner did not take any steps to restore the divorce petition or file any other petitions.

6.Under these circumstances, the petitioner has failed to prove that the 1st respondent wife left the matrimonial home without any valid reason and however, the 1st respondent has alleged serious allegations against the petitioner for living separately.

7.In view of the above, this Court does not find any illegality or perversity in the order dated 07.12.2020 in F.C.M.C.No.12 of 2016 passed by the learned Judge, Family Court, Vellore and there is no merit consideration in the submissions made by the learned counsel for the petitioner. Hence, the Criminal Revision is liable to be dismissed and it is, accordingly, dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

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To
The Judge, Family Court, Vellore.

Cr1.R.C.No.116 of 2021

GJ(CO)
GMY(08/04/2021)