



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.177 of 2018

1.Eswaramoorthy
2.Devayal

... Petitioners/Accused

Vs.

1.Yamuna Devi
2.Minor Koushik,
Natural guardian and mother
D/o.Yamunadevi

... Respondents/Complainants

PRAYER: This Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C., to set aside the order passed by the learned III Additional District and Sessions Judge, Erode, in C.A.No. 45 of 2017, dated 22.06.2017, confirming the judgment passed by the Judicial Magistrate, Sathyamangalam, Erode District in Crl.M.P.No.4666 of 2009 dated 03.12.2016.

For Petitioners : Mr.K.Krishnamoorthy

For Respondents : Mr.K.Sudhakar

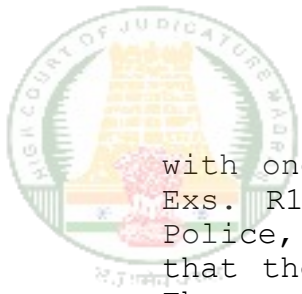
O R D E R

(This case has been heard through video conference)

This Criminal Revision Case has been filed by the accused to set aside the order passed by the learned III Additional District and Sessions Judge, Erode, in C.A.No. 45 of 2017, dated 22.06.2017.

2(a).The first respondent is the wife of the first revision petitioner, has filed Crl.M.P.No.4666 of 2009, before the learned Judicial Magistrate, Sathyamangalam, Erode District, for the offences under Sections 18, 19, 20, 21 & 22 of the Domestic Violence Act, seeking compensation for Domestic Violence and for maintenance for herself and for the minor child viz., Koushik.

2(b).The learned Judge, by an order dated 03.12.2016, at paragraph No.12 has held that the defence theory that the first complainant viz., Yamunadevi is living in illegal relationship



with one Thangamuthu, is appears to be more probable based upon Exs. R1 to R12. Infact, the evidence of RW2/Sub-Inspector of Police, All Women Police Station, Sathiyamangalam, it is stated that the complaint was given by the legally wedded wife of said Thangamuthu and the complainant herein is living adultery and hence, the Trial Court has rejected for the maintenance of wife, however granted maintenance for a sum of Rs.4,000/- per month in respect of the minor child.

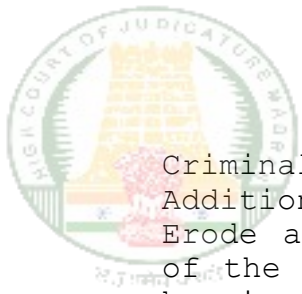
2(c).Aggrieved against the same, the complainant/Yamuna Devi has preferred Criminal Appeal No. 45 of 2017, before the learned III Additional District Sessions Judge, Gobichettipalayam, wherein, the learned Judge has enhanced the maintenance in respect of the minor to Rs.6,000/- from Rs.4,000/- and rejected the maintenance in respect of wife.

2(d).Aggrieved against the same, the accused have preferred the present Criminal Revision Case before this Court.

3.Heard both the learned counsels and perused the materials placed on record.

4.On a perusal of the records, it is stated in the complaint that the marriage was solemnized between the first revision petitioner herein and the first respondent herein on 13.06.2002 at Meenaksi Thirumanamandapam, Sathyamangalam, Erode District. At the time of marriage, the first respondent's family provide Sridhana of 15 sovereigns of gold articles and other sridhana properties also given towards to the marriage expenses. After marriage the first revision petitioner and his family members had demanded the amount of Rs.1,00,000/- from the first respondent's parents. Further, through their wedlock, one male child was born, who is the second respondent herein, at that time the first respondent was staying at the revision petitioners' house.

5.Further, according to the complaint during the matrimonial life, the revision petitioners and the others were abusing and torturing the first respondent herein. Thereby, the first respondent herein has given a complaint before the District Welfare Officer, Erode, dated 12.10.2009 and thereafter, the complaint was sent to the Judicial Magistrate of Sathyamangalam and the same was numbered in CrI.M.P.No.4666 of 2009 for the offence under Sections 18, 19, 20, 21 & 22 of the Domestic Violence Act against the revision petitioners and others. After conducting the trial, the trial Court had passed an order to pay the maintenance of Rs.4,000/- per month in respect of the second respondent herein and rejected the maintenance against the first respondent herein. Against which, the respondents herein had filed the



Criminal Appeal in C.A.No.45 of 2017, before the learned III Additional District and Sessions Court of Gopichettipalaya, Erode and the learned Judge has confirmed the order in respect of the first respondent but in respect of the second respondent herein, the learned Judge has enhanced the maintenance to a sum of Rs.6,000/- from Rs.4,000/-.

6.The Courts below have held that the first respondent had illegal intimacy with one Thangamuthu was probable and hence, maintenance in respect of the first respondent herein was disallowed and awarded a maintenance of Rs.6,000/- in respect of the minor child. However, since the date of birth of the minor child is 04.06.2003 and thereby, he has now attained majority. Hence, this Court is inclined to modify the order passed by the Lower Appellate Court to the effect that instead of paying maintenance of Rs.6000/- in total, the first revision petitioner/father of the second respondent herein shall pay a sum of Rs.3,000/- by way of cash directly to the 2nd respondent herein and in respect of the remaining sum of Rs.3,000/- the first revision petitioner/father of the second respondent herein shall pay the educational expenses of second respondent herein for the every academic year either directly to the school or to the college as the case may be.

7.With the above modification this Criminal Revision Case stands partly allowed to the limited extent as indicated above.

8.It is seen that the first revision petitioner herein has been paying only 50% of the amount awarded by the learned Judicial Magistrate, Sathyamangalam, viz., Rs.2,000/- (50% of Rs.4,000/-). Even after the enhancement of the maintenance to Rs.6,000/-, the revision petitioner herein has been paying only Rs.2,000/- towards maintenance. Therefore, the same shall be calculated and adjusted accordingly. It is open to the parties, file a memo of calculation before the Trial Court.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dua

To:

1.The Judicial Magistrate,
Sathyamangalam, Erode District.



2.The III Additional District
and Sessions Judge, Erode.

Copy to:
The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.Krishnamoorthy, Advocate, S.R.No.48791

Crl.R.C.No.177 of 2018

MG (CO)
CB (27/10/2021)