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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:01.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANAPANI

Crl.OP.No.6870 of 2018

Kavitha ...Petitioner/Respondent/Petitioner

-Vs-

Selvkumar ...Respondent/Petitioner/Respondent

Prayer:

This Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to set aside the order dated 07.08.2017 made in Crl. Rev. Petition o.21 of 2017 on the file of the learned II Additional District Judge, Salem and consequently, confirm the order dated 06.03.2017 made in MC.No.2 of 2015 on the file of the learned Judicial Magistrate-I, Mettur and also enhance the maintenance substantially.

For Petitioner : Mr.J.Ramakrishnan

For Respondent : Mr.R.C.Paul Kanagaraaj

O R D E R

The Criminal Original Petition has been filed to set aside the order dated 07.08.2017 in Crl. Rev. Petition o.21 of 2017 on the file of the learned II Additional District Judge, Salem and consequently, confirm the order dated 06.03.2017 in MC.No.2 of 2015 on the file of the learned Judicial Magistrate-I, Mettur

2. It is seen from the records that the petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 19.08.1988 as per Hindu rites and customs. After marriage, the petitioner was living in matrimonial house. There arose a misunderstanding between the petitioner and the respondent and they were living separately. The petitioner/wife has filed a petition in HMOP. No.68 of 2005 before the learned Sub Judge, Subordinate Court, Mettur, for restitution of conjugal rights. During the pendency of the HMOP., the wife has also filed a maintenance case under



Section 125 of Cr.P.C. before the Judicial Magistrate-I, Mettur, in M.C.No.02 of 2015. The learned Family Court Judge was pleased to direct the husband to pay a sum of Rs.5,000/- to the wife towards maintenance.

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3. Challenging the order passed by the Judicial Magistrate-I, Mettur, the petitioner/husband has filed the revision petition before the learned Principal District and Sessions Court, Salem in CrI.RC.No.21 of 2017. After hearing both sides, the learned Judge was allowed the petition in part and the husband was directed to pay the monthly maintenance of Rs.2,000/- to the wife.

4. Aggrieved by the said order, the petitioner/wife has filed the present petition before this Court.

5. The learned counsel for the petitioner submitted that after marriage, the respondent demanded dowry from the petitioner. When the petitioner refused to give the same, the respondent driven out the petitioner from the matrimonial house. Thereafter, the petitioner filed a petition in HMOP. No.68 of 2005 for restitution of conjugal rights and the respondent has filed a petition in HMOP.No.93 of 2005 for divorce and the same was dismissed. Thereafter, the respondent got another marriage with one Govindammal on 03.05.2004 and registered their marriage.

6. The learned counsel for the petitioner further submitted that the petitioner is struggling with her day to day activities and the respondent is having sufficient means. The respondent was not paid the maintenance regular. The Court below was directed the respondent to pay a sum of Rs.2,000/- per month is very low, which warrants interference of this Court.

7. The learned counsel for the respondent submitted that the petitioner is working as a coolie and he has to take care of his aged parents. The wife left the matrimonial home without any valid reason. Hence, she is not entitled to claim any maintenance. Therefore, the learned counsel prays this court to dismiss this petition filed by the petitioner.

8. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

9. On a careful perusal of the records, it is seen that the marriage between the petitioner and the respondent, relationship of the parties as well as the fact that they are living separately are not in dispute. Admittedly, the petitioner is unemployed and the respondent is owning a Saw Mill. However, the learned Judge has awarded only a sum of Rs.2,000/- to the wife, which was not sufficient to maintain herself.



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10. That being the case, considering the cost of living prevailing as on date, being the lady, the maintenance award passed by the lower Court is not justifiable and this Court wants to enhance the same.

11. Under these circumstances, the petitioner is entitled to get maintenance from the respondent. The respondent is directed to deposit the entire arrears of maintenance within a period of two weeks from the date of receipt of a copy of this order. Further, the respondent is directed to pay a sum of Rs.3,500/- as monthly maintenance to the petitioner on or before every 5th day of English Calendar month, without any default.

12. With the above directions, this Criminal Revision is disposed of.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The II Additional District Judge, Salem.
2. The Judicial Magistrate-I,
Mettur.

+lcc to Mr.J.Ramakrishnan, Advocate, S.R.No.30944

Cr1.OP.No.6870 of 2018

CA(CO)
PM(28/07/2021)