



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CrI.R.C.No.210 of 2018
and
CrI.M.P.No.1956 of 2018

P.Vijayaraja

...Petitioner

-Vs-

C.Deepa

...Respondent

This Criminal Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order in FCMC. No.11 of 2015 dated 08.01.2018 on the file of the Family Court, Vellore.

For Petitioner : Mr.E.Maharajan

For Respondent : Mr.U.Karunakaran

O R D E R

This Criminal Revision has been filed to set aside the order in FCMC. No.11 of 2015 dated 08.01.2018 on the file of the Family Court, Vellore.

2. The revision petitioner is the husband and the respondent is the wife. The marriage was solemnized between them on 12.12.1999 as per Hindu Rites and Caste Customs. After the marriage, the petitioner and the respondent were living in Chennai. After four months of the date of the marriage, the couples went to Oman. A quarrel arose there between the spouses. Due to misunderstanding between the couples, they were living separately from the year 2011 and thereafter, the petitioner/husband filed a divorce petition in HMOP No.339 of 2012 and the respondent/wife filed a petition for restitution of conjugal rights in HMOP.No.32/2012. The restitution of conjugal rights petition was allowed and the divorce petition filed by the husband was dismissed. In the meanwhile, the respondent has filed a maintenance petition before the Family Court, Vellore, under Section 125 Cr.P.C., praying maintenance, which was taken on file in FCMC.No.11 of 2015 claiming a sum of Rs.40,000/- . The Family Court after adverting the materials placed on record and after hearing both the parties, allowed the petition in part and the respondent therein /husband was directed to pay a sum of



Rs.12,000/- per month to the petitioner/wife towards maintenance. As against the same, the revision petitioner/husband has filed the present revision before this Court.

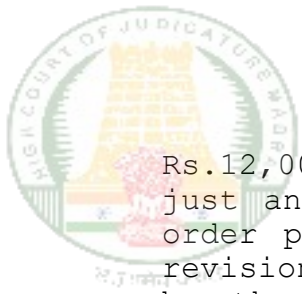
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3. The learned counsel for the petitioner/husband submitted that during the year 2011, the respondent/wife left the matrimonial home without any valid reason and the efforts taken by the petitioner went in vain and hence, the petitioner has filed a divorce petition for cruelty and desertion. The learned counsel for the petitioner further submitted that the respondent is working in IT Company and earning good salary. Hence, she is not entitled to get any maintenance under Section 125 Cr.P.C. from the husband. The trial Court came to the conclusion that on assumption, the petitioner would have earned at least a sum of Rs.50,000/- per month and awarded a sum of Rs.12,000/- to the respondent is unfair. Hence, the learned counsel prays to allow this petition.

4. The learned counsel for the respondent submitted that after the marriage, the petitioner and his family members tortured the respondent and driven out from the matrimonial home. The respondent is not employed; she is living with her aged parents and she has no sufficient means to maintain herself. The learned counsel prays to dismiss this revision.

5. Heard the learned counsel appearing on behalf of the petitioner and the respondent and perused the materials placed on record.

6. The revision petitioner is the husband and the respondent is the wife. It is admitted that the marriage between the petitioner and the respondent was solemnized on 12.12.1999 and the respondent left the matrimonial home during the year 2011. The petitioner filed a divorce petition for desertion and cruelty and the same was dismissed. The respondent filed a restitution of conjugal rights petition and the same was allowed. Challenging the said orders, the petitioner and respondent have filed two separate appeals before this Court and the same were pending. Though the petitioner claims that the respondent wife is working in IT Company and earning good salary. However, there was no proof filed before the trial Court to substantiate the said claim. Therefore, the petitioner is liable to pay the maintenance to the respondent. The fact that the respondent has no means to maintain herself and she is living in her parental home. Under these circumstances, this Court finds that the revision petitioner, despite having sufficient means, has refused to maintain the respondent. The respondent is entitled to get maintenance from the petitioner. The trial Court was directed the petitioner to pay a sum of



Rs.12,000/- per month to the respondent towards maintenance, is just and reasonable. Therefore, there is no perversity in the order passed by the Family Court and there is no merit in the revision. There is no reason to interfere with the order passed by the learned Family Court, Vellore in FCMC.No.11 of 2015, dated 08.01.2018.

7. Under these circumstances, the respondent is entitled to get maintenance from the petitioner. The petitioner is directed to deposit the entire arrears of maintenance, if any, within a period of four weeks from the date of receipt of a copy of this order. Further, the petitioner is directed to pay the monthly maintenance regularly which was ordered by the Family Court to the respondent on or before 5th day of every English Calendar month without any default.

8. In the result, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

rli

To
The Family Court,
Vellore.

+2ccs to Mr.U.Karunakaran, Advocate, S.R.No.49142(30/11/2021)

Crl.R.C.No.210 of 2018
and
Crl.M.P.No.1956 of 2018

PM[co]
NSK 17/11/2021