



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NOS.237 AND 238 OF 2021
AND
CRL.M.P.NOS.5177 AND 5184 OF 2021

Uma ... Petitioner in both Crl.RCs.

..Vs..

Gopi Kuppuraj ... Respondent in both Crl.Rcs.

Prayer in Crl.R.C.No.237 of 2021 :

Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, praying to call for records and set aside the order passed in Crl.R.C.No.10 of 2018, on the file of Principal Sessions Judge, Dharmapuri made on 17.12.2020 and consequently restore the order passed in M.C.No.4 of 2013, the learned Judicial Magistrate, Pappireddipatti.

Prayer in Crl.R.C.No.238 of 2021:

Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, to call for the records and set aside the common order passed in Crl.R.C.No.10 of 2019, on the file of Principal Sessions Judge, Dharmapuri, made on 17.12.2020. In both Crl.RCs.

For Petitioner : Mr.S.Ashok Kumar

For Respondent : Mr.C.Munusamy

COMMON ORDER

(The case has been heard through video conference)

These Criminal Revision cases have been filed against the common order passed in Crl.R.C.No.10 of 2018 and Crl.R.C.No.10 of 2019, by the learned Principal Sessions Judge, Dharmapuri, dated 17.12.2020 and consequently restore the order passed in M.C.No.4 of 2013 by the learned Judicial Magistrate, Pappireddipatti.



2. In both the petitions, the petitioner is wife and the respondent is husband. The petitioner/wife had filed M.C.No.04 of 2013 before the learned Judicial Magistrate, Pappireddipatti, and the learned Magistrate ordered maintenance of Rs.10000/- by order dated 18.08.2018. Against which, the respondent/husband filed a revision before the learned Principal Sessions Judge, Dharmapuri, in R.C.No.10 of 2018. Prior to that he had also filed a petition in Cr.M.P.No.1772 of 2018 before the trial Court seeking to modify the maintenance ordered on 18.08.2018. Pending the revision filed by the respondent/husband before the learned Principal District and Sessions Judge, the trial Judge by order dated 21.01.2019 dismissed the petition filed by the respondent/husband seeking modification of the maintenance. Against the same, the respondent/husband has filed another revision in R.C.No.10 of 2019. The Sessions Judge, after hearing both the parties, by a common order dated 17.12.2020, allowed both the revisions filed by the respondent/husband by setting aside the orders passed by the trial Judge. Against the common order dated 17.12.2020, wife is now before this Court with these criminal revision cases.

3. The learned Counsel for the petitioner would submit that the respondent has not paid any arrears of maintenance amount and the relationship of the parties is not in dispute. The matrimonial petitions are pending and the learned Sessions Judge allowed the revisions on the ground that there was ex-parte order in the HMOP. However, the said ex-parte order was subsequently set aside and now the HMOP seeking for divorce is still pending and the petitioner has also filed a petition under Section 9 of Hindu Marriage Act for restitution of conjugal rights. Therefore, still the matrimonial petitions are pending before Court below. The learned Principal District and Sessions Judge, Dharmapuri, wrongly allowed the revisions by setting aside the order of maintenance stating that the respondent/husband has got divorce on the ground of cruelty. Therefore, since the ex-parte order has already been set aside and the matrimonial petitions are still pending, the impugned orders are liable to be set aside and the present revisions may be allowed.

4. The learned Counsel for the respondent/husband would submit that the respondent has proved the fact that the petitioner left the matrimonial home voluntarily without any valid reason and also caused cruelty on the respondent. The learned Principal District and Sessions Judge, considering the earning capacity of the petitioner/wife and also the fact that there is no issues for the parties, allowed the revisions filed by the respondent/husband. There is no merit in the present revision cases and the same are liable to be dismissed.



5. Heard the learned counsel appearing for the petitioner/wife and the learned counsel appearing for the respondent/husband and perused the materials available on record.

6. The relationship of the parties not disputed and the fact that both are living separately is also not disputed. The fact that the matrimonial petitions filed by the respondent/ husband and the petitioner/wife are still pending on the file of the Family Court is also not in dispute. Earlier, the respondent/husband filed a petition before the the Sub-ordinate Judge, Dharmapuri, seeking for divorce and subsequently, the same was transferred to Sub Court, Harur and now it is pending before the the said Court. The petition filed by the respondent/husband seeking divorce and the petition filed by the petitioner/wife seeking restitution of conjugal rights are pending before the same Court. Now, the petitioner / wife invoking Section 24 of Hindu Marriage Act, has also filed a petition seeking interim maintenance during pendency of the above matrimonial petitions.

7. Therefore, the Subordinate Judge, Harur, is directed to decide the petition in I.A.No.23 of 2018 and dispose of the petition filed by the revision petitioner/wife under Section 24 of Hindu Marriage Act and decide the same on merit in accordance with law within a period of two months from the date of receipt of copy of this order.

8. With the above directions, the Criminal Revision Cases are dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Sessions Judge, Dharmapuri.
2. The Subordinate Judge, Dharmapuri.
3. The Judicial Magistrate, Pappireddipatti.
4. The Sub Ordinate Judge, Harur.

+1cc to Mr.S.Ashok Kumar, Advocate, S.R.No.45390

Criminal Revision Case Nos.237 and 238 of 2021

SSI(CO)
CS/20/10/2021