



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

Cr1.R.C.No.599 of 2016

and Cr1.MP.No.4163 of 2016

B.Raju ... Petitioner/Respondent

Vs.

R.Sangeetha ... Respondent/Petitioner

Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C. seeking to set aside the order passed in C.A.No.15 of 2015 on the file of the II Additional Sessions Judge, Salem dated 12.06.2015, reversing the judgement of the Judicial Magistrate, Additional Mahila Court, Salem in DVOP.No.27 of 2014 dated 23.12.2014.

For Petitioner : Mr.C.K.M.Appaji

For Respondent : No appearance

ORDER

This Criminal Revision Case has been preferred challenging the judgement of the learned II Additional Sessions Judge, Salem dated 12.06.2015 passed in C.A.No.15 of 2015, reversing the order of the learned Judicial Magistrate, Additional Mahila Court, Salem dated 23.12.2014 passed in DVOP.No.2346 of 2004.

2. The revision petitioner is the husband and the respondent is the wife.

3. The respondent/wife filed a Original Petition under the Domestic Violence Act before the Judicial Magistrate for claiming certain reliefs by alleging that the revision petitioner had deserted her and her children. The learned trial Judge had dismissed her petition on the finding that the revision petitioner and the respondent got separated due to some misunderstanding between themselves and the revision petitioner was not subjected to any ill-treatment. Aggrieved by the said



order, the wife has preferred the criminal appeal and in the said criminal appeal, the learned Appellate Judge has passed an order directing the revision petitioner/husband to pay a sum of Rs.5,000/- as monthly maintenance. Aggrieved over that, the husband has filed this present criminal revision.

4. The learned counsel for the revision petitioner submitted that when the lower Court has given a clear finding as to the absence of domestic violence and that has been accepted by the Appellate Court as well, the Appellate Court ought not to have ordered to give any maintenance for the wife. It is further submitted that the Appellate Court had failed to take note of the settlement deed executed by the revision petitioner in favour of the respondent as early as in the year 2009 by settling his properties and further, they have even signed a Panchayat muchalika in which, they have agreed not to interfere with each other's life thereafter. So it is submitted by the learned counsel for the revision petitioner that the First Appellate Court without considering the above said factual aspects, have fixed Rs.5,000/- per month as the maintenance and it is liable to be set aside.

5. Heard the learned counsel for the petitioner. Notice served to the respondent but no appearance for the respondent.

6. The relationship between the revision petitioner and the respondent was not denied. The only contention of the revision petitioner is that after having executed a settlement deed in favour of his wife by settling some of his properties in her favour, they got separated and to that effect, Panchayat muchalika was signed by both of them and because of that, the respondent wife has lost her right to claim any maintenance from the revision petitioner. Even in the complaint filed by the respondent/wife under the Domestic Violence Act, she has stated about the settlement deed executed by her husband. However, the revision petitioner himself has left the house by stating that he is leaving the house only because the respondent had driven him away. The respondent has stated that she was forced to sign the Panchayat muchalika. However, she claims that the petitioner in his capacity as her husband and the father of her children, has got a duty to maintain the family and his failure to do the same would amount to domestic violence. Subsequent to the alleged Panchayat muchalika, neither the revision petitioner nor the respondent had filed any petition for restitution of conjugal right or dissolution of marriage. Despite it is claimed by the revision petitioner that he got separated only as per the wishes of the respondent wife, she has claimed that the



petitioner had chosen to go out of the house because of his affairs with other women.

7. Whatever may be the cause for misunderstanding between the revision petitioner and the respondent, the fact remains that the relationship and their marital status is still in force as husband and wife. Just because a property is settled in favour of the respondent when they were living together, the wife will not lose her right to get maintenance from her husband. As the husband of the respondent, the revision petitioner has got a bounden duty to maintain her. If the husband claims that he need not maintain his family, it has to be established before the Court that the respondent herself has got a good employment or she derives income to maintain the family. In the absence of such proof, it is right for the Courts below to award a sum of Rs.5000/- per month as maintenance, taking into consideration the present cost of living and other requirements of life and I find no reason for interference.

In the result, this Criminal Revision Case is dismissed and the judgement dated 12.06.2015 passed in C.A.No.15 of 2015 by the II Additional Sessions Judge, Salem is confirmed. Connected criminal miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The II Additional Sessions Judge,
Salem.
- 2.Do Thro Principal Sessions Judge,
Salem.
- 3.The Judicial Magistrate,
Additional Mahila Court,
Salem.
- 4.Do Thro Chief Judicial Magistrate,
Salem



Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.C.K.M.Appaji, Advocate SR.No.65751

Cr1.R.C.No.599 of 2016

PM(CO)

GN(21/01/2022)