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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2021

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CrI.R.C.No.728 of 2016

and

CrI.M.P.No.5436 of 2016

M.Saravanan

..Petitioner/Respondent

Vs.

1. Mrs.Samundeeswari

2. Minor Varsha Rajeswari

Represented by mother and natural guardian

..Respondents/Petitioner

Prayer : Criminal Revision case filed under Section 397 & 401 Cr.P.C to set aside the order of the Hon'ble Family Court, Chengalpattu in F.C.M.C.No.32 of 2015 dated 09.02.2016.

For Petitioner : Mr.M.Murali

O R D E R

This petition has been filed to set aside the order of the Hon'ble Family Court, Chengalpattu in F.C.M.C.No.32 of 2015 dated 09.02.2016.

2. The case of the prosecution is that marriage between the petitioner and the respondent was solemnized on 08.09.2005 at Vadapalani Murugam Temple as per Hindu rites and customs in the presence of friends and relatives. Due to wedlock, a female child was born to them. The petitioner and the 1<sup>st</sup> respondent were lived together happily along with the second petitioner till 2011. All of a sudden, the 1<sup>st</sup> respondent was harassed and ill-treated at the hands of the petitioner and therefore, they were separated. Further, the 1<sup>st</sup> respondent without any financial assistance, was struggling to live with the child and thereby she filed M.C.No.32 of 2015, before the Family Court, Chengalpattu, claiming a sum of Rs.8,000/- per month as maintenance to the 1<sup>st</sup> respondent and Rs.7,000/- to the 2<sup>nd</sup> respondent. The Lower Court, after recording the reasons had directed the petitioner to pay a monthly maintenance of Rs.3,000/- per month in respect of the 1<sup>st</sup> respondent and



Rs.1,000/- in respect of the 2<sup>nd</sup> respondent. Challenging the said order of the Trial Court, the present petition is filed by the petitioner.

3. The learned counsel appearing for the petitioner submitted that admittedly the relationship of the petitioner and the 1<sup>st</sup> respondent is not in dispute. When the 1<sup>st</sup> respondent left the matrimonial home, he put all his efforts to bring back her to his house, however, she refused to return to her matrimonial home, which caused serious hardship and mental agony to the petitioner and thereby, the petitioner has filed divorce petition before the Trial Court for divorce and the same is pending. It is further submitted that the petitioner is earning only Rs.9,000/- as monthly income, however, the 1<sup>st</sup> respondent is having valuable movable and immovable properties apart from her regular monthly salary and out of such income, she can able to maintain herself and child. However, the Trial Court, without taking note of the material facts and as to the very meagre earnings of the petitioner, awarded a sum of of Rs.3,000/- per month in respect of the 1<sup>st</sup> respondent and Rs.1,000/- in respect of the 2<sup>nd</sup> respondent. Hence prays for allowing of this petition.

4. The learned counsel appearing for the respondents submitted that though several attempts were made by the 1<sup>st</sup> respondent and the elder member of the family, the petitioner had not chosen to cohabit with her and the 1<sup>st</sup> respondent without any source of income, struggling to maintain the child. Since the petitioner is sufficient income to maintain the respondents, he is capable to pay the award amount as ordered by the Trial Court and prays for dismissal of this petition.

5. This Court has carefully considered the rival submissions and also perused the materials placed on record.

6. It appears that the relationship of the petitioner and the 1<sup>st</sup> respondent is not in dispute. The only grievance of the petitioner is to the quantum of award amount passed by the Trial Court. The Trial Court after elaborately discussed the matter and on appreciation of evidence adduced before the Trial Court and based on the materials and on independent application of mind, had awarded the above said maintenance amount. In such situation, when the Trial Court elaborately discussed the matter and arrived at a conclusion, this Court is not inclined to interfere with the reasons assigned by the Trial Court, as there is no error apparent on the face of the record and further, in the present cost of living, the order granting maintenance amount of Rs.3,000/- per month in respect of the 1<sup>st</sup> respondent and Rs.1,000/- in respect of the 2<sup>nd</sup> respondent, is just and reasonable.



7. Accordingly, this Criminal Revision Petition is dismissed. Consequently connected miscellaneous petition is closed.

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Sd/-  
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Judge,  
Family Court,  
Chengalpattu.
2. The Section Officer,  
Criminal Section,  
High Court,  
Madras.

Crl.R.C.No.728 of 2016  
and  
Crl.M.P.No.5436 of 2016

RR(CO)  
RGA(17/11/2021)