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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.R.C.No.777 of 2018
and
Cr1.M.P.No.8867 of 2018

Murthy ... Revision Petitioner/Respondent
Vs.

1.Bharathi Prabha
2.Minor Dhatchana ... Respondents/Petitioners

Prayer: Petition filed under Sections 397 and 401 of Cr.P.C., to set aside the order dated 06.02.2018 passed in M.C.No.37/2015 on the file of Chief Judicial Magistrate at Tiruppur.

For petitioner : Mr.M.Venkadeshan
For Respondents : Mr.K.Goviganesan

O R D E R

The petitioner has filed this petition to set aside the order dated 06.02.2018, passed in M.C.No.37/2015, on the file of Chief Judicial Magistrate at Tiruppur.

2. The case of the petitioner is that he is the husband of the 1st respondent and doing tailor work and their marriage was solemnized on 18.02.2010 at Kaithamalai Murugan Temple, Oothukkuzhi, as per Hindu Customs and Rites, in the presence of their parents and family members. Out of wedlock, they begotten a female child, viz., Dhatchana / 2nd respondent on 12.04.2011. Thereafter, there was no compatibility between them and thereby, the 1st respondent has left the matrimonial home. Therefore, the petitioner has filed divorce petition on the file of the Principal District Munsif, Thiruppur, in H.M.O.P.No.394/2014 and the same is pending. Thereafter, the 1st respondent has filed M.C.No.37/2015, on the file of the Chief Judicial Magistrate Court, Tiruppur, claiming Rs.30,000/- as monthly maintenance to



the respondents. The Trial Court, after adjudication, has awarded a sum of Rs.10,000/- each. Aggrieved by the said award amount, the petitioner is before this Court by filing this petition.

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3. The learned counsel appearing for the petitioner submitted that admittedly the relationship of the petitioner and the respondent is not in dispute. Further, already the petitioner has filed divorce petition before the Principal District Munsif for divorce and made allegation against the respondent that she is living illegal life and having illegal intimacy with one person, namely, Diwakar. It is submitted by the learned counsel for the petitioner that prior to the marriage with the petitioner, the 1st respondent had married another person and suppressing the said marriage, performed marriage with the petitioner and not taking care of the petitioner and his family. It is further submitted by the petitioner that the 1st respondent is a graduate and earning sufficient salary to maintain herself by working as a Teacher. However, the Trial Court, without taking note of the material facts as to the earnings of both parties, awarded a sum of Rs.10,000/- to each of the respondents. Hence prays for allowing this petition.

4. The learned counsel appearing for the respondents submitted that though the 1st respondent claimed monthly maintenance of Rs.15,000/- for each of the respondent, however, after adjudication, the Trial Court had awarded only a sum of Rs.10,000/- each and the respondent, to maintain herself and her female child, the said awarded amount is just and reasonable. Therefore, this Court need not interfere with the award passed by the Trial Court. Further it is submitted that though serious allegations are levelled in the divorce petition, however, no documents to prove the same, were produced and such vague allegations without any evidence could not be accepted. Hence prays for dismissal of this petition.

5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. It appears that the relationship of the petitioner and the 1st respondent is not in dispute. The only grievance of the petitioner is to the quantum of award amount passed by the Trial Court. Though it is claimed by the petitioner that the 1st respondent is working as a Teacher in a private school, no documents have been filed to substantiate the said claim. Further a perusal of the materials reveals that the 1st respondent has secured higher qualification than that of the petitioner and further the petitioner is working as a Tailor in a Tirupur Banian Company and the said fact is not disputed by



the 1st respondent. Further the learned counsel for the petitioner has no serious objection with regard to the award amount to the 2nd respondent, he is having grievance only in respect of the amount awarded to the 1st respondent. In such view of the matter, considering the present cost of living, this Court is not inclined to interfere with the maintenance of Rs.10,000/- awarded in respect of the 2nd respondent and is inclined to reduce the maintenance amount with regard to the 1st petitioner from Rs.10,000/- to Rs.7,000/-.

7. Accordingly, this Criminal Original Petition is disposed of and the maintenance amount awarded by the Trial Court for a sum of Rs.10,000/- to the 1st respondent is hereby reduced to Rs.7,000/- and the maintenance amount of Rs.10,000/- awarded to the 2nd respondent remains unchanged. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Chief Judicial Magistrate,
Tiruppur.

+1cc to Mr.Govi Ganesan, Advocate, S.R.No.46299

+1cc to Mr.Venkadeshnan, Advocate, S.R.No.46409

Cr1.R.C.No.777 of 2018

MG(CO)
SU(18/10/2021)