



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Cr1.RC.No.1122 of 2014

S.Arunachalam

...Petitioner/Respondent

-Vs-

A.Indira

...Respondent/Petitioner

Prayer: Criminal revision is filed under Section 397 and 401 of the Criminal Procedure Code, to set aside the judgment in MC.No.8 of 2010 dated 29.04.2014 passed by the District Judge, Family Court, Pondicherry.

For petitioner : Mr.Y.Kavitha

For Respondent : Ms.Saikrishnan

O R D E R

The Criminal Revision has been filed to set aside the judgment in MC.No.8 of 2010 dated 29.04.2014 passed by the District Judge, Family Court, Pondicherry.

2. The revision petitioner is the husband and the respondent is his wife. The marriage between the petitioner and the respondent had taken place on 23.05.1983. In the wedlock, they were blessed with two female children viz., Hemalatha and Devipriya. At the time of the marriage, the petitioner was working as Firemen in the Fire service Department. After the marriage, they lived together in the matrimonial home. Subsequently, due to the difference of opinion, they were living separately. Hence, the respondent herein has filed a petition under Section 125 of Criminal Procedure Code, claiming maintenance of Rs.10,000/- per month, before the learned Family Court, Pondicherry. The same was taken up on file in F.C.M.C.No.8 of 2020, which was allowed in part and the petitioner was directed to pay a sum of Rs.5,000/- per month as maintenance to the respondent. As against the order passed by



the learned Family Court Judge, the petitioner has filed the present Criminal Revision before this Court.

3. The learned counsel for the petitioner submitted that the petitioner is aged about 62 years and he retired from service during the year 2018 and he is receiving very meager amount as pension. Apart from that, the petitioner has no other income. The petitioner only spent money towards the marriage expenses of both the daughters. The learned counsel further submitted that the respondent made a false allegation against the petitioner that he is in an illegal relationship with one Shanthi. But the same was not proved before the trial Court. The Family Court has failed to consider all the facts and also the complaint filed by the petitioner that the respondent and elder son-in-law caused grievous hurt to the petitioner, for which, they faced criminal prosecution before the learned Judicial Magistrate-II, Pondicherry. The learned counsel further submitted that the respondent is now living in Government Quarters, which is allotted to the petitioner by the Government, while he was in service, for which, a sum of Rs.5,000/- is deducted from the petitioner's salary every month. The learned Family Court awarded a sum of Rs.5,000/- per month to the respondent is very high and he is not able to pay to the respondent. Therefore, the order passed by the learned Family Court is not fair, which warrants interference.

4. The learned counsel for the respondent, on instructions, fairly conceded that the respondent is living in a quarters. If the petitioner is ready to arrange the shelter to the respondent, she will vacate the quarters. Further, the respondent has no means to maintain herself and the petitioner is receiving a decent amount as pension. Therefore, it is the duty of the petitioner that he has to maintain his wife.

5. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials available on record.

6. The marriage between the petitioner and the respondent is not in dispute and the relationship between them is also not in dispute. The initial burden is on the respondent/wife to prove that the petitioner has got sufficient means and that he neglected to pay her. In this case, admittedly, the revision petitioner/husband was working as Fireman in the Fire Service Department and he was retired from Service and receiving monthly pension. There is no dispute with reference to the means of the husband. However, he neglected to pay maintenance to his wife. The petitioner/husband submitted that the respondent is occupying the quarters, which was allotted to him by the Government, while he was in service, for which, Rs.5000/- is being deducted from



his salary every month. As a dutiful husband, he has to provide food, cloth and shelter to his wife. The learned counsel for the respondent fairly stated that if the petitioner is ready to arrange the shelter to the respondent, she will vacate the said premises.

WEB COPY

7. In view of the above, this court directs the petitioner to provide shelter to the respondent within a period of three months from the date of receipt of a copy of this order. The respondent is also directed to vacate the quarters, after making necessary arrangements by the petitioner.

8. It is seen from the impugned order, the Family Court awarded a sum of Rs.5,000/- to the respondent as monthly maintenance, is just and reasonable. Considering the facts and circumstances of the case and considering the cost of living prevailing as on date and being aged lady, the petitioner is directed to pay the award amount, which was passed by the Family Court towards monthly maintenance, without any default and make necessary arrangement to provide shelter to the respondent within a period of three months from the date of receipt of a copy of this order. Further, the petitioner is directed to pay the entire arrears of maintenance to the respondent within a period of four weeks from the date of receipt of a copy of this order.

9. With the above observations, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rli

To

The Family Judge,
Pondicherry.

+lcc to M/s.Giridhar & Sai, Advocate Sr No.40662

Cr1.RC.No.1122 of 2014

SR11 (CO)
PR (24/11/2021)