

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.01.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN
Criminal Revision Case No.578 of 2019
and CrI.MP.No.7844 of 2019

R.Arun Kumar

... Petitioner

..VS..

1.B.Roshini

W/o.R.Arun Kumar

2.Minior A.Haarika

D/o.R.Arun Kumar

Represented by her Mother and next friend

namely the 1st Respondent ... Respondents

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, praying to set aside the order dated 21.03.2019 made in F.C.M.C.No.59 of 2017 on the file of the Family Court, Vellore, Vellore District and allow the Criminal Revision Case.

For Petitioner : M/s.Vijayaganesh, S
for Mr.Madhana Chandran S
For Respondents : M/s.Arun Anbumani, Arya Raj &
B.Krishnamani Appukutti

O R D E R

This Criminal Revision Case has been filed against the order dated 21.03.2019 made in F.C.M.C.No.59 of 2017 on the file of the Family Court, Vellore, Vellore District.

2. The petitioner is the husband and the 1st respondent is the wife and the 2nd respondent is the minor daughter. The respondents filed a case in F.C.M.C.No.59 of 2017 for maintenance under Section 125 of Cr.P.C. before the Family Court, Vellore. The learned Family Court Judge, after enquiry dismissed the petition against the 1st respondent/wife and ordered a sum of Rs.25,000/- p.m. as maintenance to the 2nd respondent/minor daughter. Aggrieved against the said order, the petitioner has come forward with this revision before this Court.

3. According to the respondents, the marriage between the petitioner and the 1st respondent was solemnized on 30.01.2011 and out of their wedlock, they blessed with a female child. The 1st respondent was working in CMC Hospital, Vellore. When the 1st respondent was working in CMC Hospital at night shift, the petitioner expressed his willingness to marry her and

spoken to the father of the 1st respondent and they got convinced and subsequently the engagement was held on 12.12.2010 in the absence of the petitioner herein. After the marriage, they proceeded to Sweden and she also went along with her husband and stayed there only for three months. Meanwhile, she got conceived and they could not prolong their life within the stipend amount that was obtained by the petitioner herein during his internship. There was a misunderstanding between them and therefore, they lived separately. The 1st respondent is working in CMC and she is a earning member. The 1st respondent looking after the 2nd respondent minor child. The petitioner is not willing to take any care and interest of the child even the child is continuously taking treatment in CMC being Autism Spectrum Disorder. The 1st respondent is spending lot of money for treatment of the 2nd respondent minor child. Thought the 1st respondent is willing to live with the petitioner, he is not willing to live with the 1st respondent. Therefore, the 1st respondent/wife filed a case against the petitioner and after the enquiry, the Family Court dismissed the petition insofar as the 1st respondent is concerned and granted maintenance to the 2nd respondent minor child.

4. The case of the petitioner is that at the time of marriage, the petitioner was studying MS in Sweden. Immediately after the marriage, the petitioner requested the 1st respondent to stay in his matrimonial house at Kangeyanallur, however, she refused and gone to her house and stayed there, since the petitioner went back to Sweden and continued his studies. From the date of marriage, she did not stay in the matrimonial home even in a single day. After four months from the date of marriage, the 1st respondent called upon the petitioner and informed that there are better jobs in Sweden in private concerns and would be better to visit and search for jobs, she had arrived in Sweden on 10.07.2011. During stay in Sweden, she got conceived and returned to her parents house on 11.12.2011 for delivery. Even after coming from Sweden, she refused to stay in petitioner's house. After returning from Sweden, the petitioner tried to see the 1st respondent and visited her parents house, but he was stopped entering the house and insulted on various occasions outside the house without inviting him into the house and also refused to allow him in the house. When the 1st respondent returned from Sweden, she deserted the petitioner and living with her parents without any reasonable cause. Even the 1st respondent has not even informed about the birth of the child born on 22.06.2012. The learned counsel for the petitioner submitted that the 1st respondent is earning more than Rs.50,000/- p.m. and since the petitioner is jobless, the Court below directing to pay a sum of Rs.25,000/- p.m. to the second respondent which is excessive and exorbitant. Therefore, the petitioner has come forward with this present revision seeking modification of the maintenance amount awarded by the learned Judge, Family Court, Vellore.

5. Heard the learned counsel on either side and also perused the materials available on record.

6. It is seen from the records, the relationship of the parties are not in dispute and the paternity of the minor child is not in dispute. The 1st respondent is also an earning member and able to maintain herself and therefore, the Court below has rightly dismissed the petition insofar as the 1st respondent is concerned. The paternity of the child and the disablement of the child is not in dispute. Though the 1st respondent is an earning member, she cannot bear the entire expenses of the disabled child and being a father of the child, he is also liable to pay maintenance. Considering the fact that the petitioner has not denied the paternity of the child and the child is in the custody of the 1st respondent, being the father is also liable to maintain the minor child who is suffering Autism Spectrum Disorder, the Court below has rightly decided to grant maintenance to the second respondent and directed the petitioner to pay a sum of Rs.25,000/- p.m. as maintenance.

7. Therefore, this Court does not find any perversity or illegality in the order passed by the Family Court, Vellore. Accordingly, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To
The Judge,
Family Court,
Vellore.

A.SK(19.02.2021).

Crl. R. C. No.578 of 2019
and Crl.M.P.No.7844 of 2019