

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1140 of 2019
& Crl.M.P.No.15253 of 2019

Ranganathan ... Petitioner/Respondent

Vs.

Selvi @ Selvam ... Respondent/Petitioner

Criminal Revision Case filed under Sections 397(1) and 401 (1) of Cr.P.C to call for the records and allow the Criminal revision by setting aside the order dated 28.01.2019 passed by the Family Judge, Salem in M.C.No.8 of 2017.

For Petitioner : Mr.B.Vasudevan

For Respondent : Mr.S.P.Yuvaraj

O R D E R

This Criminal Revision Case has been filed against the order dated 28.01.2019 passed in M.C.No.8 of 2017 on the file of the Family Court, Salem.

2. The petitioner is the husband and the respondent is the wife. According to the petitioner, the marriage between the petitioner and the respondent was solemnized in the year 1982 and out of their wedlock, a male child and two female children were born. Subsequently, the male child died on 01.01.1993. Therefore, for the sake of male child, the petitioner married another person. Subsequently, the petitioner and the respondent were living separately. Hence, the respondent filed a case in M.C.No.8 of 2017 under Section 125 Cr.P.C seeking maintenance to her. The learned Judge, Family Court, Salem, allowed the petition and ordered a sum of Rs.7,000/- per month as maintenance to the respondent. Aggrieved against the said order, the petitioner has come forward with this revision seeking modification of the amount awarded by the Court below.

3. The learned counsel for the petitioner would submit that the respondent left the matrimonial home without any valid cause. Therefore, she is not entitled to get any maintenance. The learned counsel for the respondent submitted that due to cruelty, she left the matrimonial home and thereafter, she is living separately.

4. According to the respondent, the petitioner married another person and deserted the respondent for the sake of male child. The respondent is unable to maintain herself and the petitioner is liable to pay maintenance to her.

5. On a perusal of the records, it is seen that the relationship between the parties is not in dispute and the respondent is living separately is also not in dispute. The petitioner filed a maintenance case, seeking maintenance to her, as she is not having sufficient means to lead her day-to-day life. There is no specific income that has been fixed by the Court below and the petitioner was directed to pay a sum of Rs.7,000/- p.m. as maintenance to the respondent without any basis.

6. There is no specific evidence to show that the petitioner is earning a specific amount. Considering the fact that though a suggestion was made by the respondent counsel to the petitioner to cross-examine regarding income, the respondent/wife has not produced any documentary evidence regarding the income of the petitioner/husband. However, the petitioner has also not filed any affidavit showing his income. Considering the fact that the petitioner is liable to pay maintenance to the respondent, this Court is inclined to modify the amount ordered by the Court below. Accordingly, the amount ordered by the Court below towards maintenance is modified from Rs.7,000/- to Rs.5,000/- p.m. The petitioner is directed to pay the arrears of amount, if any, from the date of petition. The petitioner is directed to comply with the order of the Family Court, Salem, for maintenance of Rs.5,000/-p.m., failing which, the learned Judge, Family Court, Salem is directed to issue warrant and execute the order in accordance with law, without any formal application.

7. With the above modification, the Criminal Revision Case is partly allowed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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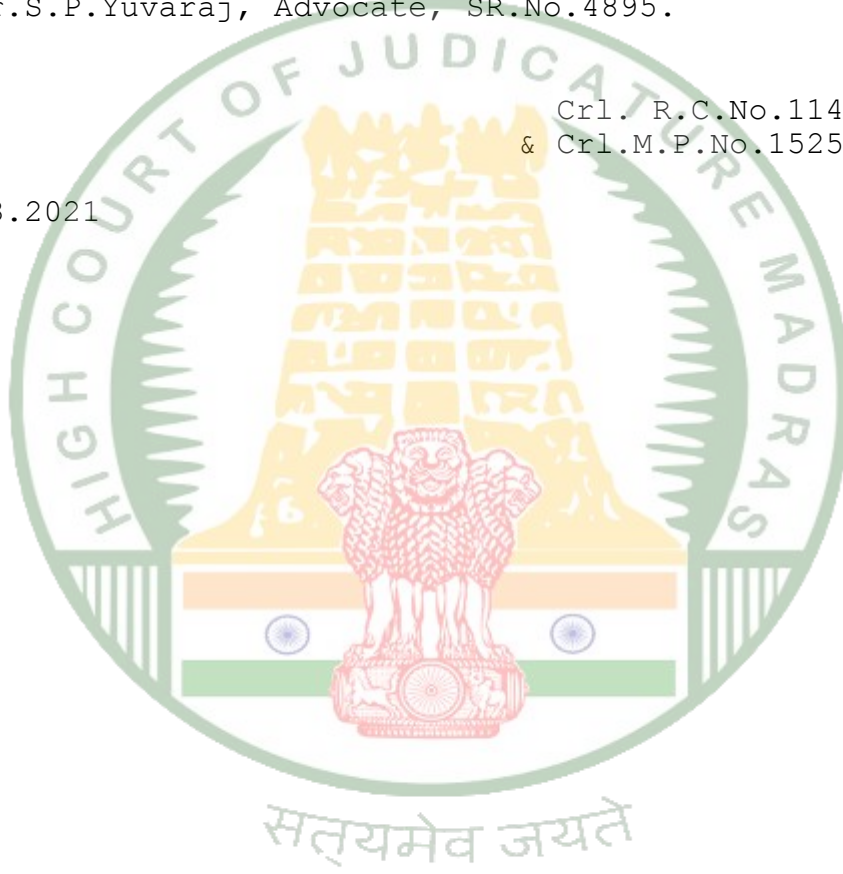
To

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

+1cc to Mr.S.P.Yuvaraj, Advocate, SR.No.4895.

Crl. R.C.No.1140 of 2019
& Crl.M.P.No.15253 of 2019

AK(CO)
CSR: 08.03.2021



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