

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 21.01.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
Crl.R.C.Nos.644 and 765 of 2019
and
Crl.M.P.No.9017 of 2019

V.Revathi
D/o.S.Venkateswaran ...Petitioner in Crl.R.C.No.644 of 2019

B.Ganesh
S/o.K.Baskaran ...Petitioner in Crl.R.C.No.765 of 2019

Vs

B.Ganesh
S/o.K.Baskaran ... Respondent in Crl.R.C.No.644 of 2019

V.Revathi
D/o.S.Venkateswaran ... Respondent in Crl.R.C.No.675 of 2019

Prayer in Crl.R.C.No.644 of 2019 : Criminal Revision cases filed under Article 397 r/w 401 of Criminal Procedure Code to set aside the order passed in M.C.No.41 of 2016 dated 22.05.2019 on the file of Judicial Magistrate at Tambaram and to direct the respondent/husband to pay a sum of Rs.50,000/- per month as claimed by the petitioner in M.C.No.41 of 2016 from the date of the petition.

(Prayer amended as per order in Crl.M.P.No.12044 of 2019 in Crl.R.C.No.644 of 2019 dated 21.01.2021)

Prayer in Crl.R.C.No.765 of 2019 : Criminal Revision cases filed under Article 397 r/w 401 of Criminal Procedure Code to set aside the order passed in M.C.No.41 of 2016 dated 22.05.2019 on the file of Judicial Magistrate at Tambaram.

Appearance in Crl.R.C.No.644 of 2019

For Petitioner : Mr.M.Vivekanandan
For Respondent : Mr.S.S.Swaminathan

Appearance in Crl.R.C.No.765 of 2019

For Petitioner : Mr.S.S.Swaminathan
For Respondent : Mr.M.Vivekanandan

COMMON ORDER

This Criminal Revision case in Crl.R.C.No.644 of 2019 has been filed under Section 397 r/w 401 of Cr.P.C. to set aside the order passed in M.C.No.41 of 2016 dated 22.05.2019 on the file of Judicial Magistrate at Tambaram and to direct the respondent/husband to pay a sum of Rs.50,000/- per month as claimed by the petitioner in M.C.No.41 of 2016 from the date of the petition.

2.This Criminal Revision case in Crl.R.C.No.765 of 2019 has been filed under Section 397 r/w 401 of Cr.P.C. to set aside the order passed in M.C.No.41 of 2016 dated 22.05.2019 on the file of Judicial Magistrate at Tambaram.

3.The petitioner in Crl.R.C.No.644 of 2019 is the wife and the husband is the respondent. Petitioner in Crl.R.C.No.765 of 2019 is the husband and respondent is the wife.

4.Both the revisions are taken up together and passed common order.

5.In order to avoid the confusion, the parties are referred to as per their rankings in the trial court.

6.The petitioner/wife has filed the case in M.C.No.41 of 2016 before the learned Judicial Magistrate, Tambaram under Section 125 of Cr.P.C for maintenance. The learned Magistrate, after the enquiry, directed the respondent/husband to pay a sum of Rs.4,000/- per month to the petitioner for maintenance from the date of petition and the respondent/husband is also directed to pay the future maintenance on or before 10th day of English calender subsequent month. Challenging the said order passed by the Magistrate, the wife/petitioner has filed the Crl.R.C.No.644 of 2019 and the husband/respondent has filed the Crl.R.C.No.765 of 2019.

7.The case of the petitioner/wife is that the marriage between the petitioner/wife and the respondent/husband was solemnized on 12.02.2016 at Mannargudi. At the time of marriage, the respondent was working as an Assistant Manager (Project), IOCL, Southern Region Pipe Lines at Aasanoor Pumping Station, Villupuram and he was earning more than one lakh per month and

due to misunderstanding both are living separately.

8.The case of the respondent/husband is that the petitioner/wife is not interested to live with him and left from the matrimonial home on her own volition. The petitioner/wife has been extended financial support in many occasions by transferring money from the bank account of the respondent. The petitioner gave a complaint before the All Women Police Station, Tambaram and the Tamil Nadu State Legal Services Authority, Chennai and dragging him from pillar to post. The petitioner is also working in Sourtherland Global Services, DLF Campus Ramapuram, Chennai and she was earning a sum of Rs.39,000/- after deduction.

9.It is seen that the petitioner/wife is the earning person therefore she is not entitled for maintenance. The learned Magistrate, after considering the facts and evidence, awarded a sum of Rs.4,000/- towards monthly maintenance and chellanging the same both are before this Court by way of these criminal revision cases.

10.Heard both sides and perused the materials available on record.

11.The relationship of the parties are not in dispute and for one or other reason, both are living separately. According to the respondent, the petitioner, on her own volition left the matrimonial home and she is a earning person therefore is not entitled for maintenance. The evidence of P.W.1/petitioner is that she is not in a position to satisfy the matrimonial life and therefore she left the matrimonial home.

12. It is admitted that the petitioner is employed in the private company. The respondent/husband herein stated that the petitioner/wife on her own volition left the matrimonial home and hence, she is not entitled to get the maintenance amount. During the cross examination, the respondent admits that his salary is Rs.39,000/- after deductions. Considering the fact, the magistrate has awarded a sum of Rs.4,000/- as maintenance for the petitioner. It is the settled position of law that if the petitioner is not able to maintain herself and if the husband is having means, he has to maintain her wife. Considering the costs of living, Rs.16,000/- is not sufficient to the petitioner to live a peaceful life. Since the petitioner is an earning member, she is not entitle to more than a sum of Rs.4,000/-.

13. Considering the oral and documentary evidence produced by both the parties, the amount of maintenance ordered by the

magistrate is reasonable and there is no perversity in the order passed. Therefore the revisions filed by the petitioner/wife in CrI.R.C.No.644 of 2019 is dismissed.

14.Though the respondent/husband raised his objection that the petitioner/wife left the matrimonial home on her own volition without any valid reason and also she was an employed person, therefore, she is able to maintain herself. Hence, the order passed by the learned Magistrate is liable to be set aside. Considering the facts and also the cost of living prevailing on the present situation, wife is also entitled to maintain her status par with the husband. Considering the fact that the petitioner/wife is the well educated and working women and also considering the income of the respondent, the Magistrate awarded only a sum of Rs.4,000/-. Therefore, the contention of the respondent is not acceptable and therefore the revision filed by the respondent/husband in CrI.R.C.No.675 of 2019 is dismissed.

In the result, these Criminal Revision Petitions are dismissed. Consequently, the miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

tta

To

The Judicial Magistrate at Tambaram.

+1 cc to Mr.M.Vivekanandan Advocate sr3797

+2 ccs to Mr.S.S.Swaminathan Advocate sr3771 & 3774

CrI.R.C.Nos.644 and 765 of 2019

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