

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.11.2021

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.R.C.No.786 of 2019
and
Cr1.M.P.Nos.11320 of 2019

Shaik Nawaz Ahmed	...	Petitioner/Respondent
	-Vs-	
A.Shakira	...	Respondent/Petitioner

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 14.05.2019 made in M.P.No.1011/2018 in M.C.No.279 of 2017 on the file of the VI Additional Family Court, Chennai.

For Petitioner : No Appearance

Respondent : Mr.N.Elayaraja

O R D E R

This criminal revision has been filed against the order of the learned V Additional Principal Judge, Full Additional Charge of VI Additional Family Court, Chennai, dated 14.05.2019 passed in M.P.No.1011 of 2018 in M.C.No.279 of 2017, directing the petitioner to pay interim maintenance at the rate of Rs.5000/- p.m. to the wife.

2 For the sake of the convenience, the petitioner and the respondent are referred to as the husband and wife respectively.

3 The respondent/wife had filed a case under Section 125 of Cr.P.C. in M.C.No.279 of 2017 against the petitioner/husband seeking to direct the husband to pay a sum of Rs.10,000/- as maintenance from the date of filing of the petition. The respondent had filed a counter. Meanwhile, during the pendency of the case, the wife had filed M.P.No.1011 of 2018 under Section 125(1) Cr.P.C. seeking to direct the husband to pay a sum of Rs.10,000/- p.m. as interim maintenance till the disposal of the main case. The wife had stated that the marriage between herself and her husband was solemnized on 24.04.2017 and that her husband caused cruelty to her and she has no means to

maintain herself and that her husband is working as a Manager in the Private Company and getting monthly salary of Rs.35,000/- and her husband has failed to maintain her. The petitioner/husband had filed a counter stating that his wife had left him and gone to her mother's house on 12.05.2017 and that he lost his job on 22.01.2019 and that he is unable to meet his personal expenses. The husband had filed Ex.R1 Service Certificate issued by his employer stating that he was working in Reliance SMSL Limited during March 25, 2016 to January 20, 2018 and that he is now unemployed. The Trial Court, after hearing both the parties and taking into consideration the materials submitted by the respondent found that it is the bounden duty of the husband to maintain his wife and directed the husband to pay maintenance at Rs.5000/- p.m. to his wife as interim maintenance.

4 Against the order of interim maintenance dated 14.05.2019 made in M.P.No.1011/2018 in M.C.No.279 of 2017 by the learned V Additional Principal Judge, VI Additional Family Court, Chennai, the husband has filed the present revision before this Court.

5 This Court had earlier referred the matter to the Mediation and no agreement has been reached between the parties and that the matter has been referred back to this Court. When the matter was listed on 11.11.2021, there was no representation for the petitioner and thereby the matter was directed to be listed on 17.11.2021 under the caption "for orders". The case has been listed today under the caption "for orders". Even today, there is no representation for the petitioner.

6 Learned counsel appearing for the respondent/wife would submit that the marriage between the petitioner and the respondent was solemnized on 24.04.2017 thereafter the husband had committed cruelty on the wife and had thrown her out of the matrimonial home. The wife is under the mercy of her aged mother and she has no means to maintain herself and she had filed the petition seeking maintenance at Rs.10,000/- from the petitioner. The learned counsel would further submit that the husband is working as Manager in the Private Company and he is earning monthly salary of Rs.35,000/-. Since the wife was unable to meet her day to day expenses, she has filed miscellaneous petition seeking interim maintenance and the trial Court has rightly found that the husband is an able bodied man and hence he is under the legal obligation to support his wife, had allowed the petition by directing the husband to pay a sum of Rs.5000/- as interim maintenance from 01.10.2018. The learned counsel for the wife would further submit that till date, no amount has been paid by the husband and the wife is put severe hardship.

7 Heard Mr.N.Elayaraja, learned counsel for the respondent and perused the materials available on record.

8 The Hon'ble Supreme Court in the case of Shamia Farooqui vs. Shahid Khan, reported in 2015 5 SCC 705, has held as follows:

"Sometimes, a plea is advanced by the husband that he does not have a job or his business is not doing well. These are only bald excuses and, infact, they have no acceptabiling in law. If the husband is healthy, able-bodied and is in a position to support himself, he is under the legal obligation to support his wife financially.

9 The trial Court taking into consideration the above decision and also the materials on records, has passed the order of interim maintenance. I do not find any infirmity or error in the order passed by the trial Court.

10 Accordingly, this criminal revision stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

cgi

To

The VI Additional Family Court,
Chennai.

Copy to:
The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.Durai Murugan, Advocate, S.R.No.59589

+1cc to Mr.Baskaran, Advocate, S.R.No.59583

Cr1.R.C.No.786 of 2019 and
Cr1.M.P.Nos.11320 of 2019

MG(CO)
SU(29/12/2021)