

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2021

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.813 of 2019

V.Devan

... Petitioner

Versus

J.Indumathi

... Respondent

PRAYER: Criminal Revision petition is filed under Section 397 & 401 Cr.P.C seeking to call for the records and set aside the impugned order passed by the IV Additional Family Court, Chennai in M.C.No.578 of 2014 dated 31.05.2019.

For Petitioner : No appearance

For Respondent : No appearance

O R D E R

This Criminal Revision Petition has been filed seeking to call for the records and set aside the impugned order passed by the IV Additional Family Court, Chennai in M.C.No.578 of 2014 dated 31.05.2019.

2. No representation for the petitioner. Since the case is arising out of Section 125 Cr.P.C, and it is pending from 2019, this Court is inclined to dispose of the revision, based on the records.

3. The petitioner is the husband, and the respondent is wife. The respondent/wife filed petition for divorce in O.P.No.1786 of 2005 before the learned Judge, Family Court, Chennai, on the ground of cruelty. The said petition was allowed by the the learned Judge, Family Court on 31.05.2019. During the pendency of the divorce O.P, the respondent also filed maintenance case in M.C.No.578 of 2014 for monthly maintenance and the learned Judge, Family Court heard both O.P and M.C and allowed O.P.No.1786 of 2005 and granted divorce on the ground of cruelty and also granted maintenance of a sum of Rs.7,000/- per month. Challenging the order passed in M.C.No.578 of 2014, the petitioner has filed the present revision.

4. The relationship of the parties are not in dispute and the respondent filed the divorce O.P and the same was allowed by the learned Judge, Family Court on the ground of cruelty. Therefore the respondent has established that she has no means to maintain herself and also she has established that the petitioner herein/husband has got sufficient means and despite that he has not maintained his wife.

5. Admittedly, now the respondent has got divorce and even divorced wife is entitled for maintenance until she gets remarried.

6. Therefore, considering the facts and circumstances of the case, this court is of the view that the order of a sum of Rs.7,000/- per month is very reasonable. Considering the earning capacity of the petitioner/husband, exercising revisional jurisdiction, this Court need not reappreciate the entire evidence as it would not be appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate. While exercising the revisional jurisdiction, this Court has to see whether there is any perversity or infirmity in the order passed by the Court below.

7. On a careful perusal of the entire materials on record, this Court does not find any perversity in the order passed by the learned Judge, Family Court in M.C.No.578 of 2014. Therefore, the Revision petition is dismissed and the petitioner is directed to comply with the order of the learned Judge, Family Court with a month, failing which, the learned Judge, Family Court is directed to execute the order in accordance with law. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mpa

To

The IV Additional Family Court, Chennai.

Cr1.RC.No.813 of 2019

PA (CO)

RMP (16/02/2021)