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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1293 of 2017

And

Crl.M.P.No.12451 of 2017

J. Ignasimuthu

... Petitioner

Vs.

Lalitha @ Lalithammal

... Respondent

Prayer:

Petition filed under Section 397 and 401 of Cr.P.C., seeking to call for records in MC 30 of 2016 on the file of the Judicial Magistrate, Ambattur, Thiruvallur District dated 14.09.2017 and set aside the same.

For Petitioner : Mr.R.C. Manoharan

For Respondent : Mr.R. Ganesh, Legal Aid Counsel

O R D E R

This petition has been filed seeking to set aside the order dated 14.09.2016, passed by the learned Judicial Magistrate, Ambattur in M.C.No.30 of 2016.

2.The case of the petitioner is that the petitioner and the respondent are husband and wife and their marriage was solemnized on 03.06.2013 and they were not blessed with child. Since there was no compatibility between them, the petitioner and the respondent through mutual agreement got separated. Since the respondent was not able to maintain herself, she filed petition under Section 125 of Cr.P.C. seeking maintenance in M.C.No.30 of 2016 before the learned Judicial Magistrate at Ambattur and a sum of Rs.5000/- per month, was awarded as maintenance to the respondent. On the earlier occasion, he gave a sum of Rs.1,00,000/- and 11 sovereigns of gold to the respondent as one time settlement. Therefore, he contends that the order passed by the trial court is wrong and it is not necessary for the petitioner to provide the amount to the petitioner for maintenance as ordered by the trial court. Hence the present revision petition has been filed before this court



to set aside the order passed in M.C.No.30 of 2016 dated 14.09.2016.

3.The learned counsel appearing for the petitioner submitted that the petitioner he already gave a sum of Rs.1,00,000/- and 11 sovereigns of gold as one time settlement to the respondent and hence the amount awarded by the lower Court is exorbitant one. Accordingly, he prayed for allowing the revision.

4.The learned counsel appearing for the respondent submitted that the petitioner is a retired person and it is the duty cast upon him to maintain his legally wedded wife. Accordingly, he prayed for dismissal of the revision.

5.Heard the submissions made on either side and perused the materials placed on record.

6.The relationship between the petitioner and the respondent is not disputed. On the ground that one time settlement was paid, the petitioner contends that no further amount need be paid. However, it is to be pointed out that no material to establish the same has been placed. Further, the payment of one time settlement would not be a bar for claiming maintenance u/s 125 of Cr.P.C.

7. It is borne out by record that the petitioner at this point of time, is receiving pension to the tune of about Rs.36,000/-. It is to be pointed out that the respondent is still the wedded wife of the petitioner and the petitioner is duty bound to maintain her. The petitioner cannot shirk his responsibility to maintain his wife, wherever she be, so long as she is the legally wedded wife of the petitioner. Therefore, the court below directing payment of maintenance to the respondent to be paid by the petitioner cannot be found fault with.

8. Coming to the quantum of maintenance awarded by the trial court, it is evident from the records that the maintenance was ordered at Rs.5000/-. It is not in dispute that the petitioner is retired and is receiving pension to the tune of about Rs.36,000/-. The cost of living is to be the index for the purpose of deciding the quantum of maintenance. It is to be pointed out that the cost of living in the present day scenario is spiralling upwards to such an extent that to maintain a person, a sum of Rs.5,000/- cannot be said to be exorbitant. Further, it is to be pointed out that the respondent would also be a senior citizen and with increase in age, the ailments that she would be suffering cannot also be lost sight of, for which she would be requiring to shell out towards medical expenses and



medicines. In such a backdrop, a sum of Rs.5000/- for maintenance cannot be said to be high.

9. The court below has taken into consideration all the aforesaid aspects and has awarded maintenance at Rs.5,000/-, though claim was made for Rs.10,000/-. The said amount, by no stretch could be termed to be exorbitant or unreasonable and this Court finds no reason to interfere with the award of maintenance as orders by the court below.

10. For the reasons aforesaid, this Court is not inclined to interfere with the order passed by the court below and, accordingly, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

NHS
To

The Judicial Magistrate,
Ambattur.

+1cc to Mr.R.Ganesh, Advocate Sr.47914
+1cc to Mr.R.C.Manohar, Advocate Sr.47425

CRL.R.C.No.1293 of 2017 &
CRL.M.P.No.12541 of 2017

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srg 16/11/2021