



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.R.C.NO.1388 OF 2017

AND

CRL.MP.NO.16156 OF 2017

Palani
Vs. ...Petitioner/Respondent

1. Nadiya

2. Minor Poojith
Rep. By his mother

...Respondents/Petitioner

Prayer:

This Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure to set aside the order dated 04.07.2017 made in I.A.FCMC.No.37 of 2015 on the file of the Family Court, Vellore, Vellore District under section 125 Cr.Pc.

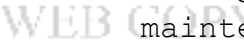
For Petitioner : Mr. Vadivel Murugan
for Mr.P.Palani Selvaraj

For Respondents: Mr.A.Velmurugan

O R D E R

The Criminal Revision Case has been filed against the order in FCMC.No.37 of 2015 on the file of the Family Court, Vellore, Vellore District dated 04.07.2017.

2. The petitioner and the first respondent are husband and wife. The second respondent is the minor son of them. The marriage between the petitioner and the first respondent was solemnized on 08.06.2006. Due to misunderstanding between the couples, they were living separately and the second respondent, who is a minor son, is living along with his mother. According to the revision petitioner, the first respondent left the matrimonial home on her own and also she got divorce from the petitioner. Hence, she is not liable to seek maintenance from the petitioner. According to the first respondent, after the birth of the second respondent, the mother in law created problems and driven out her from the matrimonial home. Further,



१२.५ प्रमेय ५२

6. Heard the learned counsel for the petitioner as well as the respondents and perused the materials available on record.



7. It is not in dispute that the petitioner herein and the first respondent are husband and wife, their marriage was also admitted; paternity of the second respondent is also admitted; both are living separately and they got divorce. Therefore now the only question is whether the respondents are having sufficient means to maintain them and whether the petitioner is liable to pay maintenance amount under Section 125 Cr.P.C.

8. It is the case of the revision petitioner that the first respondent left the matrimonial home on her own valuation and also she refused to join with the petitioner and they are living separately. Without any reason, the first respondent neglected to join with the revision petitioner. Thereafter, the first respondent filed the petition for divorce and got divorce in her favour. Hence, the revision petitioner is not liable to maintain her.

9. It is the case of the respondents that the petitioner and respondents are living separately. Out of the struggle, she got the maintenance for her minor son i.e. second respondent. There is no sufficient means to maintain them. The petitioner has sufficient means to maintain the respondents. Since, the marriage is not disputed; and the paternity of the second respondent is also not disputed; and the petitioner has not proved that the respondents are having sufficient means to maintain them, the learned Family Court rightly allowed the petition.

10. On a perusal of the materials, it is seen that the petitioner is husband and the first respondent is wife and they are living separately. On a perusal of the impugned order, it is seen that the first respondent herein filed a petition against the petitioner for divorce and got the order of divorce. The revision petitioner stated during the examination that he was earning a sum of Rs.9,000/- But he has not mentioned any details of the company. There is no dispute with reference to the means of the husband. If the revision petitioner is not liable to pay the maintenance, he has to prove that the respondents are having sufficient means. There is no evidence to show that the respondents are having sufficient means to maintain them. Therefore, the revision petitioner is liable to pay the maintenance to the respondents under Section 125 Cr.P.C. Therefore, the learned Family Court Judge directed the petitioner to pay a sum of Rs.8000/- per month to the first respondent and Rs.6000/- per month to the second respondent, which was not excessive. There is no reason to interfere with the order passed by the learned Family Court Judge, Vellore in F.C.M.C.No.37 of 2015, dated 04.07.2017.



11. Therefore, the revision petitioner is directed to comply with the order passed by the learned Family Court Judge, Vellore in FCMC.No.37 of 2015 dated 04.07.2017 within a period of four weeks from the date of receipt of a copy of this order, failing which the respondents are at liberty to recover the same in the manner known to law in the Family court, Vellore.

12. In the result, the Criminal Revision is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rli

To

1. The Judge, Family Court, Vellore, Vellore District.

+1cc to Mr.A.Velmurugan, Advocate, S.R.No.41646

Crl.R.C.No.1388 of 2017
and Crl.MP.No.16156 of 2017

RLD(CO)
PM/25/10/2021