

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.01.2021
CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.938 of 2019 and
Crl.M.P.No.13363 of 2019

S.Lokesh

... Petitioner

Vs.

T.Priya

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order of M.C.No.200 of 2017 passed on 9th July 2019, which is pending on the file of the V Additional Principal Judge, V Additional Family Court.

For Petitioner : Mr.K.Chandrasekaran

For Respondent : No Appearance

ORDER

The respondent has filed a maintenance case under Section 125 Cr.P.C in M.C.No.200 of 2017 before the learned V Additional Principal Judge, Chennai. The learned V Additional Principal Judge, Chennai, by order, dated 09.07.2019, awarded a sum of Rs.10,000/- per month towards maintenance to the respondent. Challenging the same, the petitioner/husband of the respondent, has filed the present revision.

2.The learned counsel for the petitioner would submit that the respondent filed a complaint against the petitioner under the Protection of Women from Domestic Violence Act, 2005 and the same was dismissed. Thereafter, the petitioner has filed a petition for divorce in O.P.No.1723 of 2012 before the learned V Additional Principal Judge, Chennai, on the ground of cruelty and the same is pending. During the pendency of the divorce petition, the respondent filed the maintenance case in M.C.No.200 of 2017. Though at the time of marriage the petitioner was working, due to accident, he left his job. Now, the petitioner is not working and he has no source of income. This fact was not considered by the learned V Additional Principal Judge, Chennai while deciding the maintenance case.

3.The learned counsel for the petitioner would further submit that the respondent herself admitted that she has not produced any document regarding the income of the petitioner and therefore, the order passed by the learned V Additional Principal Judge, Chennai, is liable to set aside.

4.No representation for the respondent either in person or by her respective counsel.

5.Heard and perused the records.

6.The marriage between the petitioner and the respondent is not in dispute and the respondent has been living separately from the year 2012 is also not in dispute. The petitioner has filed a petition for divorce in O.P.No.1723 of 2012 before the learned V Additional Principal Judge, Chennai. During the pendency of the divorce petition, the respondent filed M.P.No.200 of 2017 for monthly maintenance. The learned V Additional Principal Judge, Chennai by order, dated 09.07.2019, ordered Rs.10,000/- towards maintenance to the respondent. Admittedly, the petitioner is working as Aoegen Religion Insurance Company in Chennai and earning Rs.50,000/- per month. Apart from that he is running Travel Agencies in Chennai in the name of Kowsalya Airport Ticker Agencies and earning Rs.1,00,000/-. The petitioner has not specifically denied his avocation, only he put a suggestion that the respondent did not produce any salary certificate or proof of income.

7.A reading of the records, it is seen that the respondent stated in the petition filed in M.C.No.200 of 2017 that the petitioner is working as Aoegen Religion Insurance Company and earning Rs.50,000/- per month. Apart from that he is running Travel Agencies in Chennai in the name of Kowsalya Airport Ticker Agencies and earning Rs.1,00,000/- per month, totally he is earning Rs.1,50,000/-. Likewise, in paragraph No.22 in the proof affidavit filed by the respondent before the learned V Additional Principal Judge, Chennai, it is specifically stated that the petitioner is working as Aoegen Religion Insurance Company and earning Rs.50,000/- per month and also running Travel Agencies in Chennai in the name of Kowsalya Airport Ticker Agencies and earning Rs.1,00,000/- per month, totally he is earning Rs.1,50,000/-. The petitioner has denied the fact that he is not working in the said company and not running travel agency. He only put a suggestion regarding his income alone and not challenged the employment.

8.Considering the fact that the divorce petition in O.P.No.1723 of 2012 is pending before the V Additional Principal Judge, Chennai and the petitioner is having sufficient source of income, this Court is of the view that the petitioner is liable to pay the maintenance amount of Rs.10,000/- per month to the respondent till the disposal of the divorce petition.

9.In view of the above, this Court does not find any illegality or perversity in the order passed by the Court below

and there is no merit consideration in the submissions made by the learned counsel for the petitioner. Hence, the Criminal Revision is liable to be dismissed and it is, accordingly, dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS.II)

/True Copy/

Sub Assistant Registrar

To

The V Additional Principal Judge,
V Additional Family Court, Chennai.
Chennai.

AKM/22.2.21 /3P-2C/

CrI.R.C.No.938 of 2019
21.01.2021



WEB COPY