

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.964 of 2019
and
Crl.M.P.No.13625 of 2019

C.Gunasekaran ... Petitioner

Vs.

1.G.Devi
2.G.Niveditha
3.G.Hari ... Respondents

PRAYER : Criminal Revision Case filed under Section 397 and 401 Cr.P.C., praying to set aside the order made in M.C.No.35 of 2017 dated 06.06.2019 on the file of the learned Chief Judicial Magistrate Court, Tiruppur.

For Petitioner : Mr.S.Venkatesh
For Respondents : No appearance.

O R D E R

The petitioner is the husband of the 1st respondent. The 1st respondent is the wife, 2nd and 3rd respondents are the daughter and son of the petitioner. The respondents filed the case in M.C.No.35/2017 before the learned Judicial Magistrate, Thiruppur u/s.125 Cr.P.C. The learned Magistrate, after enquiry, ordered a sum of Rs.5000/- each to the 1st and 3rd respondents and Rs.10,000/- for the 2nd respondent and medical expenses. Challenging the said order, the petitioner has filed the present Revision before this court.

2. The learned counsel for the petitioner would submit that on 21.10.2019, when this matter was listed, this court heard the matter and directed to list the matter for reporting compliance. Thereafter, the matter is listed today.

3. Heard and perused the records.

4. This petition is for maintenance of the wife and children and hence, this court is inclined to dispose of the matter on merits.

5. A perusal of the records would go to show that the 1st respondent got married to the petitioner on 04.06.1998 as per religious rites and customs. Out of their wedlock, one son and one daughter was born to them. Prior to the said marriage in the year 1995, the petitioner got married one G.Rabiya Bashari and out of the said marriage, a male child was born on 27.04.1998 prior to the marriage with the 1st respondent. According to the petitioner, 1st respondent knew very well about the petitioner's first marriage and due to the pressure from the petitioner's parents, he married the 1st respondent, who is petitioner's maternal uncle's daughter as his second wife and both the wives lived in their matrimonial house under one roof. Thereafter due to differences arose, both the petitioner and the respondents are living separately.

6. The marriage between the parties are not in dispute. The relationship between the parties and the paternity of the petitioner is not disputed. The petitioner and the respondents are living separately is also not in dispute. The petitioner already got married one G.Rabiya Bashari and out of the wedlock, the petitioner is having one male child. The petitioner got married to the 1st respondent who is his maternal uncle's daughter as his second wife and out of the said wedlock 2nd and 3rd respondents are born. According to the 1st respondent, the petitioner suppressed the fact of his first marriage and therefore, she left the matrimonial home and living separately. However, according to the petitioner, the 1st respondent knew very well about the petitioner's first marriage and due to pressure from his parents, married the 1st respondent who is none but the maternal uncle's daughter. But subsequently the 1st respondent deserted the petitioner.

7. A reading of the entire typed set of papers in this Revision shows that the petitioner is running lathe work and able to make out the livelihood. The respondents are unable to maintain themselves. Therefore, the trial court passed the order directing the petitioner to pay maintenance of Rs.5,000/- each to 1st and 3rd respondents; Rs.10,000/- to 2nd respondent, in total Rs.20,000/- per month to the respondents. Since the petitioner and the respondents are living separately and the respondents are not having sufficient means to maintain themselves, the petitioner is liable to maintain the respondents and therefore, the Chief Judicial Magistrate, Tiruppur, rightly ordered a sum of Rs.20,000/- in total to be payable to the respondents. This

court find no merit in the Revision and the Revision is liable to be dismissed. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed vacating the interim stay.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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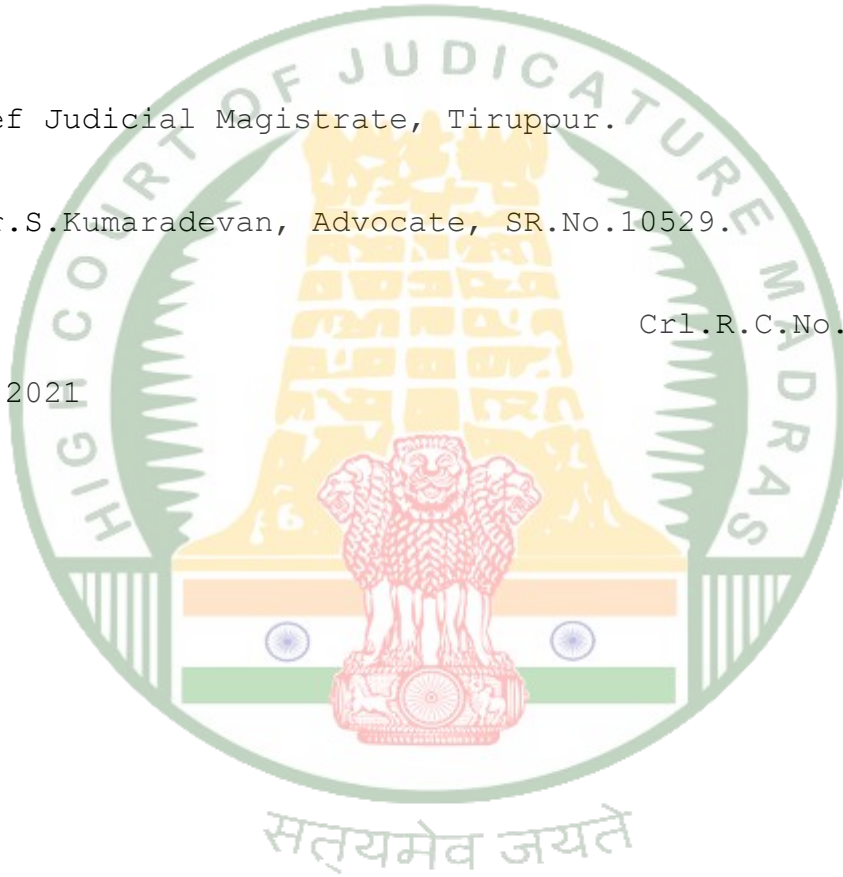
To

1.The Chief Judicial Magistrate, Tiruppur.

+1cc to Mr.S.Kumaradevan, Advocate, SR.No.10529.

JP-II(CO)
CSR 30.04.2021

Cr1.R.C.No.964 of 2019



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