



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CrI.R.C.No.1619 of 2017 and
CrI.M.P.No.16694 of 2017

Elangumaran

...Petitioner

-Vs-

1. Rukkumani

2. Minor Dharanish @ Poominathan
Rep. By his mother and natural
guardian Rukkumani

...Respondents

This Criminal Revision Petition is filed under Sections 397 read with Section 401 of Cr.P.C. against the order passed by the Family Court, Dharmapuri in FCMC No.4 of 2017 dated 04.09.2017.

For Petitioner : Mr.K.Subburam
For Respondents : Mr.E.Kannadasan

O R D E R

This criminal revision has been filed against the order dated 04.09.2017 passed in M.C.No.4 of 2017 on the file of the Family Court, granting maintenance.

2. The petitioner is the husband, first respondent is his wife and the second respondent is their son. The marriage between the first respondent and the petitioner had taken place on 28.08.2006 at Alangayam. Out of the wedlock, the second respondent was born during the year 2009. Due to misunderstanding, the petitioner and the first respondent were living separately. The first respondent left the matrimonial house along with her child without any valid reason. Therefore, the petitioner filed a divorce petition before the learned Subordinate Judge, Vaniyambadi in HMOP No.58 of 2012 and the same was allowed on 28.01.2013. Thereafter, the respondents herein had filed a petition against the petitioner/husband under Section 125 of Cr.P.C. seeking maintenance before the Family Court, Dharmapuri. The learned Judge, after adverting to the materials placed on record and after hearing both the parties, had awarded a sum of Rs.7000/- to the first respondent/wife and Rs.3000/- to second respondents/son from the date of petition to till the date of order in M.C.No.4 of 2017 and also awarded Education expenses of Rs.30,000/- per year to the second



respondent. Challenging the order dated 04.09.2017, the petitioner/husband has preferred the present criminal revision case before this Court.

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3. The learned counsel for the petitioner submitted that the award amount passed by the trial Court is not in terms of Section 125(4) of Cr.P.C. The petitioner herein has clearly established before the trial Court that the first respondent has refused to live with the petitioner without any valid reason. The first respondent has never taken care of the petitioner and his mother and she frequently entered into quarrel with the petitioner and his mother and left the matrimonial home on her own and started to live with her parents. At that time, the first respondent lodged a complaint before the All Women Police Station, Bargur for dowry harassment, which is totally false and also the first respondent has stated that she has not inclined to live with the petitioner. The said statement was marked before the trial Court during cross examination. During the pendency of the divorce petition, the matter was referred before the National Lok Adalath, in which, the petitioner has agreed to settle the land in favour of the second respondent/son. However, the trial Court, without considering all these aspects, mechanically awarded the maintenance for a sum of Rs.10,000/- per month to the respondents, which warrants interference of this Court.

4. The learned counsel for the respondents submitted that the petitioner used to drink alcohol and quarrelled with her wife by suspecting her fidelity and also demanded dowry. Thereafter, the petitioner driven out the first respondent from the matrimonial home. The petitioner is an operator of JCB and earning a sum of Rs.50,000/- per month and the first respondent is unable to maintain herself and her child. Despite having sufficient means, the petitioner is refused to maintain his wife and child. The Family Court, after taking into consideration all the submissions made by both the sides, has awarded the maintenance amount, which is a lesser amount only and it does not warrants any modification.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. The relationship between the parties is not in dispute. The paternity of the child/second respondent is not in dispute. The petitioner only filed a divorce petition and obtained an ex-parte divorce in HMOP. No.58 of 2012 dated 28.01.2013 on the file of the Sub Court, Vaniyambadi. Therefore, the petitioner is liable to pay the maintenance to the respondents. The respondents are also entitled to get maintenance from the



petitioner. The trial Court was directed the petitioner to pay a sum of Rs.7,000/- per month to the first respondent and Rs.3,000/- per month to the second respondent towards maintenance, is just and reasonable and further the trial Court directed the petitioner to pay a sum of Rs.30,000/- per annum toward educational expenses to the second respondent is very reasonable. Hence, there is no reason to interfere with the order passed by the learned Family Court, Dharmapuri in FCMC.No.4 of 2017, dated 04.09.2017.

7. With the above discussions, this criminal revision case is dismissed. The petitioner/husband is directed to continue to pay the monthly maintenance regularly without any default. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rli
To

The Judge,
Family Court, Dharmapuri.

+1cc to Mr.K.Subburam, Advocate SR.No. 42811

+1cc to Mr.E.Kannadasan, Advocate SR.No. 42355

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NRL(CO)
BVC(30.09.2021)