



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1625 of 2017

and

Crl.M.P.No.16734 of 2017

S.Sudhakar

...Petitioner/Respondent

Vs.

1.G.Swarnamughi

2.Minor Gopika

(rep by her mother guardian

1st petitioner)

...Respondents/Petitioners

Prayer: Petition filed under Sections 397 and 401 of Cr.P.C., to set aside the order dated 20.03.2017 passed in M.C.No.68/2012 on the file of Principal Family Judge, Coimbatore.

For petitioner : Mr.James

For Respondents : M/s.R.Radhapandian

O R D E R

The petitioner has filed this petition to set aside the order dated 20.03.2017 passed in M.C.No.68/2012, on the file of the Principal Family Judge, Coimbatore.

2. The case of the petitioner is that he is the husband of the 1st respondent and their marriage was solemnized on 23.06.2004 at Galaxy Marriage Hall, Podanur Road, Coimbatore, as per Hindu Customs and Rites, in the presence of their parents and family members. Out of wedlock, they begotten a female child, viz., Gopika / 2nd respondent on 07.12.2005 and within three months after marriage, the 1st respondent was harassed and ill-treated for want of dowry. The 1st respondent also gave a complaint to the All Women Police, Pullakulam, on 20.05.2009 regarding the atrocities of the petitioner. Thereafter, due to matrimonial dispute between them, the 1st respondent has left the matrimonial home. Therefore, the petitioner has filed divorce petition on the file of the Principal District Munsif,



Thiruppur, in H.M.O.P.No.609/2011 and the same is pending. Thereafter, the 1st respondent has filed M.C.No.68/2012, on the file of the learned Family Judge, Coimbatore, claiming Rs.10,000/- each as monthly maintenance to the respondents. The Trial Court, has taken both the divorce petition and maintenance petition together and passed the impugned common order. The Trial Court, after adjudication, had granted divorce and awarded a sum of Rs.3,500/- each to the respondents as monthly maintenance. Aggrieved by the said award amount, the petitioner is before this Court by filing this petition.

3. The learned counsel appearing for the petitioner submitted that admittedly the relationship of the petitioner and the respondent is not in dispute. When the 1st respondent left the matrimonial home, he put all his efforts to bring back her to his house, however, she refused to return to her matrimonial home, which caused serious hardship and mental agony to the petitioner and thereby, the petitioner has filed divorce petition before the Trial Court for divorce. It is further submitted that the 1st respondent has voluntarily left the matrimonial house and living with her parents and the petitioner is taking care of her wife and child by paying advance to their house and meeting out educational expenses of his child. However, the Trial Court, without taking note of the material facts and as to the very meagre earnings of the petitioner, awarded a sum of Rs.3,500/- to each of the respondents. Hence prays for allowing this petition.

4. The learned counsel appearing for the respondents submitted that though the 1st respondent claimed monthly maintenance of Rs.10,000/- for each of the respondents, however, after adjudication, the Trial Court had awarded only a sum of Rs.3,500/- each and the respondent, to maintain herself and her female child, the said awarded amount is just and reasonable. Therefore, this Court need not interfere with the award passed by the Trial Court. Hence prays for dismissal of this petition.

5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. It appears that the relationship of the petitioner and the 1st respondent is not in dispute. The only grievance of the petitioner is to the quantum of award amount passed by the Trial Court. The Trial Court after elaborately discussed the matter and on appreciation of evidence adduced before the Trial Court and based on the materials and on independent application of mind, had awarded maintenance amount of Rs.3,500/- each to the respondents. In such situation, when the Trial Court elaborately discussed the matter and arrived at a conclusion, this Court is not inclined to interfere with the reasons assigned by the Trial



Court, as there is no error apparent on the face of the record and further, in the present cost of living, the order granting maintenance amount of Rs.3,500/- each to the respondents, is just and reasonable.

WEB COPY

7. Accordingly, this Criminal Original Petition is dismissed. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

sk

To

1.The Principal Family Judge,
Coimbatore.

2.The Public Prosecutor,
Madras High Court.

3.The Section Officer,
Criminal Section Records,
High Court, Madras.

+lcc to M/s.R.Radha Pandian, Advocate Sr No.46554

Cr1.R.C.No.1625 of 2017

BR (CO)
PR (23/11/2021)