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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL.R.C.NO.495 OF 2017

AND

CRL.M.P.NO.4394 OF 2017

Thandabani

...Petitioner / Respondent

Vs

Chitra

...Respondent / Petitioner

PRAYER : Criminal Revision case filed under Article 397 r/w 401 of Criminal Procedure Code, to set aside the order dated 23.03.2017 passed in MC.No.2 of 2016 on the file of the Family Court at Karaikkal.

For Petitioner : M/s.Sai Bharath and Ilan

O R D E R

This Criminal Revision case has been filed for setting aside the order in M.C.No.164 of 2017 passed by the order dated 23.03.2017 passed in MC.No.2 of 2016 on the file of the Family Court at Karaikkal.

2. The Revision Petitioner is the husband and the respondent is his wife. The marriage between the petitioner and the respondent was solemnized on 22.03.1996 at Vaitheeswaran Koil as per Hindu Rites and Customs. Out of the wedlock, two male children were born to them. Due to difference of opinion, the respondent left the matrimonial home and living separately. Thereafter, the respondent/wife has filed a petition under Section 125 of Cr.P.C., claiming a sum of Rs.8,000/- as maintenance before the learned Judge, Family Court, Karaikkal in M.C.No.2 of 2016 and the same was allowed in part, directing the revision petitioner/husband to pay a sum of Rs.4,000/- per month as maintenance to the respondent/wife. Challenging the order passed by the learned Judge, Family Court, Karaikkal in M.C.No.2 of 2016, dated 23.02.2017, the petitioner herein has filed the present Revision Case before this Court.

3. The learned counsel appearing on behalf of the petitioner submitted that due to misunderstanding, the respondent left the matrimonial home. After marriage, the



respondent has never taken care of her husband and children. The petitioner only has taken care of his two male children till date. Further, the respondent had illegal intimacy with one John, who is working in Karaikkal Municipality and the same was established before the trial Court by examining his elder son viz., RW2. He clearly deposed that the respondent used to visit the said John's house frequently. Therefore, the learned counsel further submitted that respondent is not entitled to get maintenance from the petitioner under Section 125 of Cr.P.C. Hence, the order dated 23.02.2017 made by the learned Judge, Family Court, Karaikkal in M.C.No.2 of 2016 is liable to be set aside.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Despite served notice to the respondent, there is no representation on her behalf.

5. It is seen from the records that the trial Court has awarded a sum of Rs.4,000/- per month as maintenance to the respondent. Though the petitioner has stated that the respondent had illegal intimacy with one, John, but he has not produced any evidence to prove the same. On perusal of the cross examination of RW2, the respondent and the said John were visiting each other frequently. Except this, no other allegation was made against the respondent. Merely, both the respondent and the said John were frequently visiting each other at the house, it cannot be a ground to say that they involved in adultery. To prove the same, the petitioner has to produce some more witnesses. In the present case, except RW1 and RW2, no other witnesses have been examined to prove the adultery. The trial Court has also not accepted the allegation of adultery against the respondent and awarded a sum of Rs.4,000/- per month as interim maintenance to the respondent, which is very reasonable. Therefore, this Court is not inclined to interfere with the order passed by the learned Family Court, Karaikkal, and there is no merits in this revision. The petitioner is directed to continue to pay the maintenance the respondent/wife without any default.

6. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected Criminal Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

rli



To

The learned Family Court Judge,
Karaikkal.

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+1cc to Mr.T.Saikrishnan, Advocate SR.No.42753

Cr1.R.C.No.495 of 2017
and
Cr1.M.P.No.4394 of 2017

NR(CO)
RVM(29/09/2021)