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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.500 of 2017
and
Crl.M.P.No.4418 of 2017

M.Senthil Murugan,
S/o.P.Marimuthu

...Petitioner

Vs

S.Jayanthi
D/o.S.Jayapandi

...Respondent

PRAYER: Criminal Revision case filed under Article 397 r/w 401 of Criminal Procedure Code, to set aside the order of the learned Chief Judicial Magistrate, Tirupur, dated 16.02.2017 passed in MC.No.48 of 2014.

For Petitioner : Mr.K.Chandrasekaran

For Respondent : Mr.J.Franklin

O R D E R

This Criminal Revision case has been filed for setting aside the order dated 16.02.2017 in MC.No.48 of 2014 passed by the learned Chief Judicial Magistrate, Tirupur.

2. The Revision Petitioner is the husband and the respondent is the wife. The marriage between the petitioner and the respondent was solemnized on 02.06.2010 at Thiruverkadu Temple as per Hindu Rites and Customs. The respondent is the daughter of the petitioner's maternal Uncle. Due to difference of opinion, the parties were living separately. Thereafter, the respondent/wife has filed a petition against her husband under Section 125 of Cr.P.C., claiming a sum of Rs.20,000/- per month as maintenance before the learned Chief Judicial Magistrate, Tirupur in M.C.No.48 of 2014 and the petition was allowed directing the revision petitioner/husband to pay a sum of Rs.10,000/- per month as maintenance. Challenging the order passed by the learned learned Chief Judicial Magistrate, Tirupur dated 16.02.2017, the petitioner herein has filed the present Revision before this Court.



3. The learned counsel appearing on behalf of the petitioner submitted that due to misunderstanding, the respondent left the matrimonial home on her own. After marriage, the respondent has never taken care of her husband and his family members. The petitioner has approached the respondent for reunion many times, but she never came forward to live with her husband. The petitioner is earning Rs.20,000/- per month and out of his salary, the petitioner has to take care of his aged mother. Therefore, the petitioner is not able to maintain his wife and she is not entitled to get maintenance from the petitioner as she only deserted her husband. Hence, the order dated 16.02.2017 passed by the learned Judge, Family Court, Villupuram in M.C.No.48 of 2014 is liable to be set aside.

4. Heard the submissions made by both counsel and perused the materials available on record.

5. It is admitted that the respondent is the wife of the petitioner and the marriage between the petitioner and the respondent was solemnized on 02.06.2010. It is the stand of the respondent/wife that after marriage, she was harassed by the petitioner and his mother and was even abused and assaulted, which led her to leave her matrimonial home. It is the further averment of the respondent/wife that the petitioner has not shown any inclination to join his wife and she has been living in her parental house and that the petitioner has not taken any steps to bring his wife back to her matrimonial home. Though, it is the stand of the petitioner that due to no reason the respondent/wife left her matrimonial home, however, it is the stand of the respondent/wife that due to the cruelty meted out to her at her matrimonial home, she was made to leave the matrimonial home and that she is living at her parents house.

6. It is the case of the petitioner that he is earning a sum of Rs.20,000/- per month out of which he is duty bound to take care of his mother. However, it is not to be lost sight of that the petitioner is also duty bound to take care of his wife as well. When the petitioner has not shown any inclination to take care of his wife, it is to be pointed out that the respondent is still the wedded wife of the petitioner and the petitioner is duty bound to maintain her as a duty is cast upon the petitioner to maintain his wife. The petitioner cannot shirk his responsibility to maintain his wife. wherever, she be, so long as she is the legally wedded wife of the petitioner. Therefore, the court below directing payment of maintenance to the respondent to be paid by the petitioner cannot be found fault with.

7. Coming to the quantum of maintenance awarded by the trial court, it is evident from the records that the maintenance has



been ordered at the rate of Rs.10,000/- per month, though claim has been made by the respondent for Rs.20,000/- per month. However, it is the stand of the petitioner that he is receiving a sum of Rs.20,000/- as salary out of which he has to necessarily take care of his mother. The cost of living is to be the index for the purpose of deciding the quantum of maintenance. It is to be pointed out that the cost of living in the present day scenario is spiralling upwards to such an extent that to maintain a person, a sum of Rs.10,000/- cannot be said to be exorbitant. At the same time, this court also cannot lose sight of the fact that the petitioner has to take care of his mother as well, who would be a senior citizen and with increase in age, the ailments that she would be suffering cannot also be lost sight of, for which the petitioner would be required to shell out towards medical expenses and medicines. In such a backdrop, this court feels that the reasonable and just maintenance that could be fixed is Rs.8,000/- , considering the fact that the petitioner has to maintain himself and his mother.

8. For the reasons aforesaid, the order of maintenance passed by the court below is modified and this criminal revision petition is disposed of directing the petitioner to pay a maintenance of Rs.8,000/- to the respondent/wife from the date of petition and also continue to pay the maintenance at the aforesaid rate. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

Vv

To

The Chief Judicial Magistrate,
Tirupur.

+1cc to M/s.J.Franklin, Advocate, S.R.No.40690

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and
Crl.M.P.No.4418 of 2017

LN(CO)
RGA(24/09/2021)