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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.586 of 2017
and
Crl.M.P.No.7482 of 2017
and
Crl.M.P.No.5200 of 2017

N.Shankar

...Petitioner

.. Vs ..

S.Thilagavathi

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C., against the judgment of the I Additional District and Sessions Judge, Erode in Crl.A.No.134 of 2016 dated 3.2.2017, confirming the order passed by the Judicial Magistrate No.III, Erode in D.V.Act No.6 of 2016 dated 14.06.2016.

For petitioner : Mr.R.Prabakar
for Mr.C.E.Pratap

For Respondent : Mr.Jagajothi
for Mr.V.Balamurugan

O R D E R

The husband is the revision petitioner herein.

2. The solemnization of the marriage between the petitioner and the respondent and the son being born are not disputed. Due to certain allegations, the wife has filed a case under the Domestic Violence Act No. 6 of 2016 for protection order and for return of the ration card and for maintenance.

3. After service, the petition has been disposed of with a direction to return the ration card to the wife and Rs.8000/- per month as a maintenance. The husband has filed Crl.A.No.134/2016 alleging that initially, he has filed H.M.O.P.No.167 of 2011 which was re-numbered as F.C.O.P.No.345 of 2016 before the Family Court giving the working address as



A.C.Logo Shed, Old Railway Station Road, Erode-1 wherein he has specifically stated that the husband has already went to matrimonial home and residing in his house. Even in the maintenance case in M.C.No.20 of 2016 the respondent has shown the very same address of the husband has found in H.M.O.P.No.167 of 2011.

4. While that being so, for the reasons unknown in the D.V. petition filed before the learned Judicial Magistrate No.III, Erode, he has given the address of the matrimonial home where the respondent wife is living. In spite of the address given in the two other petitions which are at earlier point of time, without noticing the same it appears that the learned Magistrate has ordered as stated above. The Appellate Court has not even gone into the grounds raised by the petitioner. A mechanical order seems to have been passed as if it was an ex-parte decree and the finding rendered at Para No.16 reflects that the lower Appellate Court (Additional sessions Judge) has not gone through the papers and passed an order and accordingly) the order passed in the appeal is set aside. The matter is remitted back to the learned Additional Session Judge and the C.A is ordered to be restored to file.

5.The petitioner-husband is permitted to file relevant documents in the appellate stage and thereafter the Appellate Court has to pass orders on merits. Till the disposal of the appeal, the husband is directed to pay a sum of Rs.4,000/- per month as an interim measure subject to the outcome of the civil appeal.

6.Accordingly, this Criminal Revision Petition is allowed to the limited extent indicated above. Consequently, connected CrI.M.Ps are closed.

Sd/-

Assistant Registrar(CS VI)

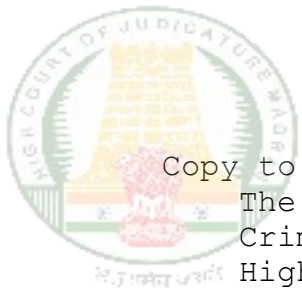
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Sub Assistant Registrar

nvi

To

1. The I Additional District and Sessions Judge,
Erode
2. The Judicial Magistrate No.III,
Erode



Copy to:

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

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+1CC to Mr.C.E.Pratap, Advocate, Sr.No.48005

order in
Crl.R.C.No.586 of 2017

GPL (CO)
K.RK. (13.10.2021)