

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1326 of 2019
in
Crl.M.P.No.17860 of 2019

R.Bharathkumar
S/o.G.Radhakrishnan

... Petitioner

Vs.

K.Mahalakshmi
W/o.R.Bharathkumar

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w. 401 of Cr.P.C. to call for the records in M.C.No.5 of 2018 on the file of the learned Family Court Judge, Vellore and set aside the final order dated 03.08.2019 in the M.C.No.5 of 2018 passed by the learned Family Court Judge, Vellore.

For Petitioner : Mr.P.Udhaya Shankar
for Mr.I.Jenkins William

For Respondent : Mr.G.Varun Gandhi
for Mr.M.Gopi

सत्यमेव जयते
O R D E R

The petitioner is the husband and respondent is the wife. The respondent filed a maintenance case in F.C.M.C.No.5 of 2018 on the file of the Family Court, Vellore, under Section 125(1) Cr.P.C. The learned Judge, Family Court, after enquiry, ordered a sum of Rs.7,500/- as monthly maintenance. Challenging the said order, the petitioner has filed the present revision petition.

2. During admission this Court passed a conditional order. The learned counsel for the respondent submitted that the conditional order passed by this Court has not been complied with. Despite the conditional order, there was no representation

for the petitioner. The matter is pertaining to maintenance under Section 125(1) Cr.P.C., a summary procedure.

3. According to the petitioner, the marriage between the petitioner and respondent was solemnized on 10.07.2016 and thereafter, due to misunderstanding arose between them, they are living separately. The petitioner filed a petition in F.C.O.P.No.201 of 2017 pending before the Family Court, Vellore. At that time, the respondent has also filed a petition in M.C.No.5 of 2018 stating that the petitioner was working in a private concern and earning a sum of Rs.40,000/- per month and the respondent has no means to maintain herself.

4. The learned counsel for the petitioner stated that the respondent has not produced the income details of the petitioner. The Court, has fixed the maintenance amount based on the hypothetical view. Absolutely there is no evidence to show that the petitioner is earning a sum of Rs.40,000/- p.m. and therefore, the order under challenge is liable to be set aside.

5. However, on perusal of the records, this Court does not find any documentary proof either on behalf of husband nor on the side of wife. However, the petitioner has not proved that the respondent has sufficient means to maintain herself.

6. Learned counsel for the petitioner would submit that on a careful reading of P.W.1 evidence, it could be seen that she has not admitted that she is working after marriage and that at the time of filing the application she was an earning member. Therefore, the petitioner has not proved that at the time of filing this petition under Section 125(1) Cr.P.C., the respondent is a earning member. Therefore, in these circumstances, based on the materials, the learned Judge, Family Court, Vellore, ordered a sum of Rs.7,500/- as monthly maintenance, which is a very reasonable amount.

7. This Court, does not find any perversity in the order passed by the Family Court. Therefore, there is no illegality or infirmity in the order passed by the learned Judge, Family Court, Vellore. Accordingly, the Criminal revision petition is dismissed. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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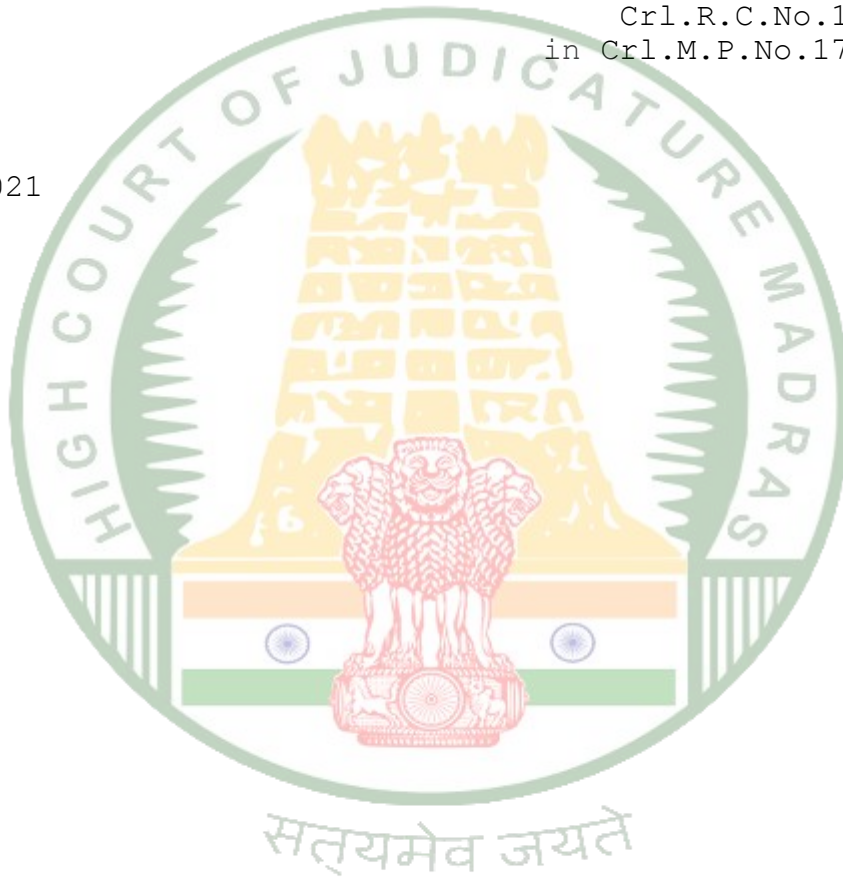
To

The Judge,
Family Court,
Vellore.

+1 cc to Mr.Gopi Advocate sr4177
+2 ccs to M/s.I.Jenkim william Advocate sr3909

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