



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:22.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CrI.RC.No.1177 of 2018
and CrI.MP.No.13787 of 2018

Loganathan

...Petitioner

-Vs-

Selvarani

....Respondent

Prayer:This Criminal Revision Case filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the order made in FCMC. No.20 of 2016 dated 21.03.2018 passed by the learned Family Court Judge, Vellore.

For Petitioner : Mr.S.Kanmani

For Respondent : Mr.A.Gowthaman

ORDER

The Criminal Revision Case has been filed against the order made in FCMC. No.20 of 2016 dated 21.03.2018 passed by the learned Family Court Judge, Vellore.

2. It is seen from the records that the petitioner is the husband and the respondent is his wife. The marriage between the petitioner and the respondent was solemnized on 09.07.2004 as per Hindu rites and customs. After marriage, the respondent was living in matrimonial house along with the petitioner along with the petitioner's mother and his two daughters, who were born through the first wife. Due to misunderstanding between the petitioner and the respondent, they were living separately. In the meantime, the respondent filed a maintenance case under Section 125 of Cr.P.C. before the learned Judge, Family Court, Vellore in M.C.No.20 of 2016 claiming a sum of Rs.15,000/- After elaborate trial, the Family Court was allowed the petition in part and directed the husband to pay a sum of Rs.6000/- to the wife towards maintenance. Challenging the said order, the petitioner/husband has filed the present revision before this Court.

3. The learned counsel for the petitioner submitted that admittedly the petitioner got married with the respondent for the purpose of maintaining his two daughters, who were born



through the first wife. Due to matrimonial dispute between the petitioner and the respondent, they were living separately. On 02.11.2018, this Court granted interim stay by directing the petitioner to pay a sum of Rs.5,500/- to the respondent as maintenance. The petitioner is ready to pay the said amount to the respondent. Further the learned counsel submitted that the petitioner has to take care of his aged mother and two daughters. Hence, the learned counsel prays to set aside the order of the Family Court.

4. The learned counsel for the respondent submitted that the respondent is struggling with her day to day activities and the petitioner is serving in Army and he is having sufficient means. Despite having sufficient means, the respondent neglected and refused to maintain his wife. Initially, the trial Court awarded a sum of Rs.6,000/- as maintenance to the respondent and thereafter, this Court granted interim stay by directing the petitioner to pay a sum of Rs.5,500/- per month as maintenance to the respondent and the said amount is also very low. Hence, the learned counsel prays to dismiss this petition.

5. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

6. On a careful perusal of the records, it is seen that the marriage between the petitioner and the respondent, relationship of the parties as well as the fact that they are living separately are not in dispute. Admittedly, the petitioner is serving in Army and the respondent is unemployed. Initially the trial Court awarded a sum of Rs.6,000/- per month to the respondent towards maintenance and thereafter, this Court granted interim stay and directing the petitioner to pay a sum of Rs.5,500/- per month as monthly maintenance.

7. According to the petitioner, he has to take care of his aged mother and minor daughters, who were born through the first wife. According to the respondent, she has no sufficient means to maintain herself and she is depending upon the petitioner for her livelihood. The learned counsel for the respondent submitted that she is ready and willing to join with the petitioner. But the petitioner is refused to live with the respondent and the learned counsel for the petitioner fairly submitted that the petitioner is ready to pay a sum of Rs.5,500/- per month toward maintenance to the respondent and he prays this Court to confirm the same.

8. Under these circumstances, this Court is inclined to modify the award passed by the Family Court, Vellore, from Rs.6,000/- to Rs.5,500/- towards maintenance to the respondent. The petitioner is directed to deposit a sum of Rs.5,500/- per month towards maintenance to the respondent from the date of



petition to till the date. Further, the petitioner is directed to pay a sum of Rs.5,500/- as monthly maintenance to the respondent on or before 5th day of every English Calender month, without any default.

WEB COPY

9. The respondent is directed to deposit the entire arrears of maintenance as fixed by this Court, less the amount, if any, already deposited and he is directed to pay the remaining arrears of maintenance amount within a period of four weeks from the date of receipt of a copy of this order.

10. With the above directions, this Criminal Revision case is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rli

To

1. The Judge,
Family Court, Vellore.

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

+1CC to M/s.S.Sivamani, Advocate, Sr.No.49152

Cr1.OP.No.1177 of 2018
and Cr1.MP.No.13787 of 2018

GMR(CO)
SB(15/11/2021)