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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2021

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CrI.O.P.No.29303 of 2018

and

CrI.M.P.No.17183 of 2018

D.Suresh

.. Petitioner

Vs.

1.Mrs.R.S.Banupriya

2.Minor S.Sathana

D/o D.Suresh(Represented by her
mother/natural guardian/1st respondent
herein)

.. Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in C.R.P.No.07/2017 dated 30.08.2018 on the file of Court of the Additional District and Sessions Judge II, Tirupur.

For Petitioner : Mr.Naveen Kumar Murthi

For Respondent Nos.1 & 2 : Mr.K.Myilsamy

O R D E R

This petition has been filed by the petitioner seeking to set aside the order passed in C.R.P.No.07/2017, dated 30.08.2018, on the file of Court of the Additional District and Sessions Judge II, Tirupur.

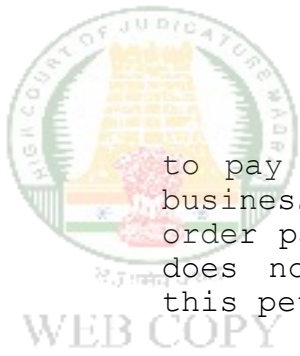
2. The case of the petitioner is that the petitioner was married to the 1st respondent on 02.09.2011 and she gave birth to a girl child, who is arrayed as 2nd respondent herein and after some period of marital life, there was no compatibility between the couples and they got separated. It is stated by the petitioner that despite his continuous request to join the company of his wife, she refused to live with the petitioner. Subsequently the petitioner has initiated divorce proceedings against the 1st respondent on 06.02.2013 in H.M.O.P.No.34 of 2013, on the file of the Subordinate Judge's Court, Coimbatore and the 1st respondent has also filed a transfer petition, due to which, the case got transferred as H.M.O.P.No.242 of 2014, on the file of the Subordinate Judge, Tirupur and the same is currently pending.



3. It is alleged by the petitioner that the 1st respondent has further initiated proceedings claiming maintenance from the petitioner in M.C.No.46/2014, on the file of the Chief Judicial Magistrate Court, Tirupur, wherein an order was passed to pay maintenance to the tune of Rs.15,000/- per month to the 2nd respondent and Rs.10,000/- per month to the 1st respondent and to pay arrears of maintenance to the respondents from the date of initiation of proceedings. A Challenge was made to the said order of maintenance by the petitioner before the Court of the Additional District and Sessions Judge II of Tirupur in C.R.P.No.07/2017 . However, the lower appellate Court, vide judgment dated 30.08.2018, upheld the order passed by the Chief Judicial Magistrate Court, Tirupur. Aggrieved by the same, the petitioner has filed this present petition.

4. The learned counsel appearing for the petitioner submitted that the 1st respondent has initiated proceedings for maintenance and alleged as if she was subjected to physical abuse by the petitioner and his family members and falsely made a claim before the Courts below that she has no other source of income and substantiated her claim for maintenance. He further made a submission that ordering such a huge sum towards maintenance is highly disproportionate to the income of the petitioner as he has responsibility to take care of his old age parents. The lower Appellate Court, without considering the factual circumstances had upheld the order of the lower court and therefore, prays this Court to decide the matter in accordance with law.

5. The learned counsel appearing for the 1st respondent submitted that for solemnization of marriage, parents of the 1st respondent incurred Rs.7 lakhs towards marriage expenses, 30 sovereigns of jewels, Rs.1,00,000/- of cash and house hold articles worth about Rs.30,000/- was given as dowry. Despite that, the 1st respondent was tortured and physically abused by the petitioner and his family members demanding huge sum of dowry. Unable to tolerate the same, she left the companionship of the petitioner and is staying separately with her minor daughter in her parental home. However she is not able to mitigate her day to day expenses as she has responsibility to take care of her old age parents and minor daughter. Since the petitioner is having assets worth about Rs.1,00,00,000/- and further he is also earning Rs.5,00,000/- as monthly income from his own business, she has filed a petition claiming maintenance from the petitioner and the same was allowed in favour of her, by directing the petitioner to pay a sum of Rs.25,000/- to the respondents as maintenance. The learned counsel further submitted that the said sum awarded by the Courts below is a very meager amount and not at all difficult for the petitioner



to pay maintenance, as he is having sufficient income from his business and property worth about Rs.1 crore and therefore the order passed by the Courts below is sustainable one and the same does not require any modification and prays for dismissal of this petition.

6. This Court has carefully considered the rival submissions and also perused the materials available on record.

7. Though the respondents claimed for Rs.50,000/- towards maintenance, the Trial Court after careful scrutiny of the entire materials, has reached a conclusion to award Rs.25,000/- (Rs.15,000/- to the 2nd respondent and Rs.10,000/- to the 1st respondent). This Court is of the opinion that in the present situation the cost of living has risen very much and in the above circumstances, the amount awarded by the Trial Court cannot be said to be excessive. Even to maintain herself and her minor daughter, if such amount is not paid, the respondents will be put to hardship. Therefore, this Court is of the considered opinion that the reasons assigned in the impugned order do not suffer any infirmity or error apparent on the face of the record and this Criminal Original Petition lacks merit and substance.

8. For the reasons aforesaid, this Criminal Original Petition is dismissed, confirming the order dated 30.08.2018, passed in C.R.P.No.07/2017, on the file of Court of the Additional District and Sessions Judge II, Tirupur. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sk

To
The Additional District and Sessions Judge II,
Tirupur.

+1cc to Mr.K.Myilsamy, Advocate Sr No.36325
+1cc to M/s.Naveen Kumar Murthi, Advocate Sr No.35469

Crl.O.P.No.29303 of 2018
and
Crl.M.P.No.17183 of 2018

SSV (CO)
PR (25/08/2021)