



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.03.2021

Delivered on : 25.03.2021

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.333 of 2020

and

Crl.M.P.(MD)No.2830 of 2020

Khader Oli

.. Petitioner

Vs.

1.Agadha Praveen

2.Minor.Mohamed Fayed Oli

3.Minor.Mohamed Zayed Oli

(Respondent Nos.2 and 3 were rep by their

Natural guardian Mother 1st Respondent) .. Respondents

Prayer : This Revision Case filed under Section 397 r/w. Section 401 of Cr.P.C., to call for the records and to set aside the order in Cr.M.P.No.586 of 2018 in M.C.No.61 of 2017, dated 08.11.2019 passed by the Family Court, Tiruchirappalli.

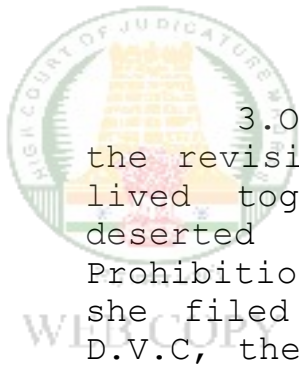
For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.A.K.Manickam

ORDER

This revision has been filed to call for the records and to set aside the order in Cr.M.P.No.586 of 2018 in M.C.No.61 of 2017, dated 08.11.2019 passed by the Family Court, Tiruchirappalli.

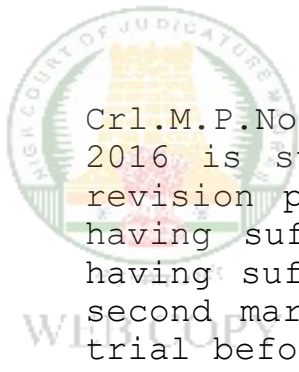
2.The petitioner is the husband and the first respondent is the wife and the respondents 2 and 3 are the minor children. The first respondent / wife filed a petition in M.C.No.61 of 2017 against the petitioner / husband before the Family Court, Tiruchirappalli in M.C.No.61 of 2017 for a relief of maintenance, along with the petition, she filed a petition in Cr.M.P.No.586 of 2018 for interim maintenance. The Family Court, Tiruchirappalli, allowed the petition and directing the revision petitioner/husband to pay a sum of Rs.10,000/- (Rs.4,000/- for the first respondent and Each Rs.3,500/- for the respondents 2 and 3) and to pay a sum of Rs.34,800/- to the second petitioner and Rs.32,300/- to the third respondent respectively towards the Educational expenses for the year 2018-2019. Against that order, the petitioner / husband filed this Revision.



3. On the side of the revision petitioner, it is stated that the revision petitioner / husband and the first respondent / wife lived together from 2007 till 2015. Subsequently, the wife deserted the husband and filed a complaint under the Dowry Prohibition Act against the husband and his family members and she filed a D.V.O.P. Case in D.V.C.No.128 of 2016 and in the D.V.C, the Court has ordered the revision petitioner / husband to pay a sum of Rs.5,000/- per month and the revision petitioner / husband is paying the amount. The revision petitioner / husband is an ulcer patient and he taking treatment in Vellore Hospital. Only because, the revision petitioner / husband is a patient, the first respondent / wife deserted him. The first respondent / wife is working in a College, she is a Phd., decree holder, earning a sum of Rs.40,000/- per month. The first respondent / wife married another person and she is having a child through him and prayed the impugned order to be set aside. Copy of a page from internet wishing the respondent happy married life on 11th December is filed, on the side of the revision petitioner.

4. On the side of the respondents, it is stated that it is wrong to state that the first respondent / wife got second marriage. The judgment was pronounced on 08.11.2019 and the marriage date as alleged by the petitioner is 11.12.2019. The date itself indicates that the allegation is wrong. There was a proposal for the second marriage, but, no marriage taken place. No evidence was produced by the revision petitioner / husband to prove the second marriage. The revision petitioner / husband was working abroad and he returned back to India recently. He is having sufficient means and he worked aboard for eight years and earned more than Two Crores. He is having three houses and a Complex and is receiving Rs.60,000/- as rent. The income of the revision petitioner / husband was not denied in the counter and prayed the petition to be dismissed.

5. It is seen that the maintenance case is still pending before the Family Court, Tiruchirappalli and this order in Cr.M.P.No.586 of 2018 was passed only for interim maintenance. The allegation against the first respondent / wife is that she married some other person and she is having a child through him. But, no witness was examined to prove the same and no document was filed by the revision petitioner / husband, to prove that the first respondent / wife got a second marriage, except copy of a page from internet, which is insufficient. The income of the first respondent / wife was not proved by the revision petitioner / husband. It is stated that in D.V.C.No.128 of 2016, the Additional Mahila Court, Tiruchirappalli, has directed the revision petitioner / husband to pay a sum of Rs.5,000/- towards interim maintenance. The income of the revision petitioner / husband was not denied by him in the counter filed in



Crl.M.P.No.586 of 2018. Whether the case under D.V.C.No.128 of 2016 is still pending or disposed of were not mentioned in the revision petition. Whether the revision petitioner / husband is having sufficient means, whether the first respondent / wife is having sufficient means, whether the first respondent / wife got second marriage, all these matters can be decided only after the trial before the lower Court.

6.In the above circumstances, this Court directs the revision petitioner / husband to pay a sum of Rs.5,000/- per month in addition to the sum of Rs.5,000/- in D.V.C.No.128 of 2016 to the first respondent / wife towards the maintenance of the respondents. With the above direction, this Criminal Revision Case is partly allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ls

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judge, Family Court,
Tiruchirappalli.
2. The Section Officer, (2 copies)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.A.K.MANICKAM, Advocate (SR-14130[F] dated
29/03/2021)

order made in
Crl. R.C.(MD)No.333 of 2020
25.03.2021