



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.12.2021

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THE HONOURABLE **MR.JUSTICE G.ILANGO VAN**

Crl.O.P. (MD)No.1261 of 2019
and
Crl.M.P. (MD)No.604 of 2019

Balakumar ... Petitioner/Petitioner/
Respondent-Husband

Vs.

1.Chitra
2.Minor Dhanuja
(represented by her mother/first respondent herein)

... Respondents/Respondents/
Petitioners-Wife & Daughter

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records of the learned Principal Sessions Judge, Dindigul in Crl.R.C.No.16 of 2017 by his order dated 04.09,2018, by which dismissing the above said criminal revision and confirming the order of maintenance passed by the learned District Munsif cum Judicial Magistrate, Veda sandur in M.C.No.4 of 2012 by its order dated 31.05.2017 and set aside the same.

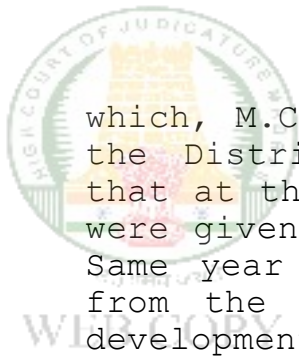
For Petitioner : Mr.S.Deenadhayalan

For R1 : Mr.D.Balamurugapandi

ORDER

This criminal original petition has been filed to set aside the order that has been passed by the learned Principal Sessions Judge, Dindigul in Crl.R.C.No.16 of 2017 dated 04.09,2018 confirming the order passed by the learned District Munsif cum Judicial Magistrate, Veda sandur in M.C.No.4 of 2012 dated 31.05.2017.

2.Facts of the case are that the first respondent is the wife of the petitioner herein. Marriage between them took place on 26.08.20007 and because of the marriage, the second respondent also born to them. After some time, dispute arose between them, out of



which, M.C.No.4 of 2012 was filed by the petitioners herein before the District Munsif-cum-Judicial Magistrate, Vedasanthur stating that at the time of marriage several jewels and sreethana articles were given and the petitioner herein was running a furniture mart. Same year of the marriage, he received six sovereigns of jewels from the first respondent stating that it is required for the development of the business. Thereafter, the petitioner involved in immoral activities and he assaulted the first respondent by demanding additional dowry. However, the petitioner is running the furniture mart and earning Rs.20,000/- per month. The efforts made by the first respondent to make compromise, did not end well. Apart from the above said business, he is also owning agricultural lands and thops. Hence, the first respondent filed the above petition seeking maintenance of Rs.10,000/-.

3.During the course of proceedings, the first respondent was examined as PW.1 and two documents were marked and the petitioner herein was examined as DW.1 and one document was marked. After going through the records and evidence, the Trial Court came to the conclusion that there is no dispute with regard to the marriage and birth of the child. It is the contention of the petitioner that the first respondent without any lawful means withdrew herself from the matrimonial life and went to her parental home and thereafter, never returns. She also refused to live with him in the matrimonial home along with his parents.

4.On the basis of the evidence, the Trial Court has found that without any lawful means, this petitioner is not taking care of the respondents. Finding that the petitioner is earning sufficient money, he was ordered to pay Rs.4,000/- towards first respondent and Rs.3,000/- to the second respondent. Against the said order, a revision has been filed by the petitioner before the learned Principal Sessions Judge, Dindigul in Crl.R.C.No.16 of 2017 and the same came to be dismissed by the Revision Court confirming the order passed by the Trial Court. While dismissing the revision, the Court below has observed that the income of the petitioner is sufficiently enough, since it is admitted by him that he is running furniture mart along with one enterprises. It is also noticed that the petitioner filed a divorce petition before the Trichy Family Court and divorce has also been granted in HMOP.No.618 of 2014. It is further found that there is sufficient material and evidence to show that the first respondent along with the second respondent had driven out of the matrimonial home. It is further noticed that this petitioner married another woman and live with her. When the second marriage was performed by this petitioner, the order has been confirmed by the Revision Court.

5.Heard both sides and perused the materials available on record.



6.It is admitted by the petitioner that he performed second marriage and live with his second wife, namely Saranya. When was the second marriage was performed, before the filing of the maintenance case or not is not clear on record. The evidence taken by the first respondent to that effect shown that she was driven out of the matrimonial home and the same is proved.

7.It is the contention on the part of the petitioner that it is only the first respondent withdrew herself from the matrimonial life, when she demanded separate residence and the same was denied by the petitioner stating that he has to look after his old age parents. It appears that because of this issue they separated.

8.However, the petitioner married another woman and this is sufficient ground for granting maintenance, even though divorce has been granted on the basis of the petition filed by the petitioner in HMOP.No.618 of 2014. Therefore, the respondents are entitled to claim maintenance from the petitioner. No sufficient reason has been given by the petitioner to reconsider the order that has been passed by the Courts below. Moreover, since the revision itself dismissed second round of revision in the form of criminal original petition, may not be appropriate. I find no reason to differ the view that has been taken by the Courts below. I also find no reason to reduce the maintenance amount and this Court is of the considered view that in the present economic situation, the maintenance ordered by the Court below is not sufficient. However, there is no counter claim made by the respondent seeking enhancement of the maintenance amount.

9.Therefore, this petition deserves dismissal. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

gns

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 Principal Sessions Judge,
Dindigul.

2.The District Munsif cum Judicial Magistrate,
Vedasandur.

+1 CC to M/s.D.BALAMURUGAPANDI, Advocate (SR-37064[F] dated
02/12/2021)

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-37341[F] dated
03/12/2021)

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USK (15.12.2021) 4P 5C