



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.02.2021

Pronounced on : 03.03.2021

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.RC(MD).No. 307 of 2017 and

CrI.M.P(MD).No. 2891 of 2017

WEB COPY

P. Soundar

: Petitioner / respondent

Vs.

K. Selvi

: Respondent / petitioner

PRAYER:- Criminal Revision Case filed under Section 397 and 401 Cr.P.C., against the orders passed by the Family Court, Tirunelveli, Tirunelveli District in M.C.No.7 of 2017, dated 15.03.2017.

For petitioner

: Mr. J. Senthil kumar

For respondent

: Mr. A.K. Manickam

ORDER

This Criminal Revision is directed against the order passed in M.C.No. 7 of 2017, dated 15.03.2017 on the file of the Family Court, Thirunelveli.

2. It is not in dispute that the marriage between the revision petitioner and the respondent was solemnized on 01.05.2015 at Arulmigu Salaikumarasamy Temple, Thirunelveli, as per Hindu Rites and Customs and that subsequently, there arose misunderstanding between them and they are living separately. It is also not in dispute that the revision petitioner has filed a petition in HMOP.No.273 of 2016 for divorce and that after enquiry the said petition was ordered to be dismissed. The respondent, by invoking Section 125 Cr.P.C., has filed a case in M.C.No.7 of 2017 on the file of the Family Court, Thirunelveli claiming maintenance at Rs.15,000/- per month. The revision petitioner has filed a counter statement disputing the claim of the respondent and prayed for dismissal of the same. The learned Judge of the Family Court, upon considering the evidence adduced and on hearing the arguments of the both sides, has passed the impugned order on 15.03.2017 directing the revision petitioner to pay a sum of Rs.5,000/- per month as maintenance from the date of petition and also directed to pay the arrears within a period of two months from the date of receipt of a copy of that order. Aggrieved by the said order, the husband has come forward with the present revision.

3. Whether the order of the Family Court passed in M.C.No. 07 of 2017 dated 15.03.2017 is liable to be set aside? is the point for consideration.



4. The learned counsel appearing for the revision petitioner / husband would submit that the revision petitioner has not challenged the finding of the trial Court that the respondent / wife is entitled to get maintenance and the challenge is only with respect to the quantum of maintenance fixed by the Family Court.

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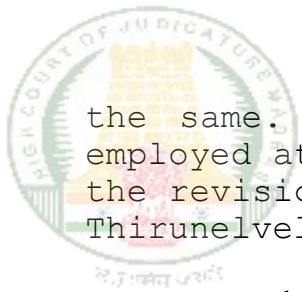
5. The learned counsel appearing for the revision petitioner would contend that the revision petitioner himself has admitted in his chief examination before the trial Court that he can only pay a sum of Rs.1,500/- as monthly maintenance, that the trial Court ought to have appreciated the bonafide attitude of the petitioner, that the revision petitioner has also admitted in his cross examination that he was jobless at that time, but the trial Court has failed to consider the same and passed the impugned order on imaginary grounds and that the trial Court has not properly appreciated the evidence adduced.

6. The respondent's specific case is that the revision petitioner was working as a sales representative in Selva Vinayagar Steel Emporium at Tumblip, Maharashtra State and was earning more than Rs.40,000/- per month and that the revision petitioner is owning several houses and vacant Plots and that therefore, he is having necessary means to pay the maintenance amount.

7. The defence of the revision petitioner is that he was getting a salary of Rs.15,000/- only at Bombay, that since he had taken leave for giving medical treatment to the respondent, his service was terminated and that he is only getting an income of Rs.6,000/- to Rs.7,000/- at Thirunelveli.

8. No doubt, as rightly contended by the learned counsel for the revision petitioner, the revision petitioner in his chief examination itself would say that he can pay maintenance amount at Rs.1,500/- per month. The learned counsel for the revision petitioner at the time of arguments before this Court would submit that the revision petitioner is prepared to pay a sum of Rs.3,000/- per month. The learned trial Judge, by observing that the respondent is 30 years old and therefore, it is very difficult for her to live at Thirunelveli with Rs.1,500/- and that since the revision petitioner was having experience and he was getting salary of Rs.15,000/- at Mumbai, has fixed the monthly maintenance at Rs.5,000/-. Though the revision petitioner has been alleging that he is getting only Rs.6,000/- to Rs.7,000/- per month at Thirunelveli, he has not chosen to furnish any particulars about his employment and his salary.

9. It is not the case of the revision petitioner that the respondent / wife is employed and is getting income. But at the same time, thought the respondent has alleged that the revision petitioner was getting Rs.40,000/- at Bombay and is owning several houses and vacant plots, she has not produced any evidence to substantiate



the same. It is not in dispute the revision petitioner is now employed at Thirunelveli. It is not the case of the respondent that the revision petitioner is even now getting income of Rs.40,000/- at Thirunelveli.

10. In the absence of any evidence and on considering the facts and circumstances, the status of the parties and the present economic scenario, fixing of monthly maintenance at Rs.5,000/- is on higher side and the same is to be reduced to Rs.4,000/- from the date of revision. But at the same time, the respondent is at liberty to approach the Family Court, for enhancement of maintenance, if it is warranted.

11. Considering the above, this Court decides that the respondent / wife is entitled to get monthly maintenance at Rs.4,000/- and the revision petitioner is directed to pay the said amount of Rs.4,000/- per month to the respondent / wife from the date of revision. Considering the other facts and circumstances of the case, this Court further decides that the parties are to be directed to bear their own costs and the above point is answered accordingly.

12. In the result, this Criminal Revision Case is partly allowed and the monthly maintenance amount awarded at Rs.5,000/- is ordered to be reduced to Rs.4,000/-. The revision petitioner is directed to pay the monthly maintenance at Rs.4,000/- to the respondent from the date of revision. Parties are directed to bear their own costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

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/ /2021

Sub Assistant Registrar(CS)

To

1.The Judge,

The Family Court, Tirunelveli, Tirunelveli District.

2.The Section Officer, (2C)

Criminal Section

Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.A.K.MANICKAM, Advocate (SR-8515[F] dated 03/03/2021)

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03.03.2021

NA (CO)

KB(11.03.2021) 3P 5C

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