



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**ORDER RESERVED : 02.07.2021**

**ORDER PRONOUNCED : 30.07.2021**

CORAM :

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

**Crl.R.C. (MD) No.704 of 2017**

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G.Selvakumar

... Petitioner

vs.

1.M.Revathy

2.Minor Hannesh

... Respondents

**PRAYER:-** This Criminal Revision Case filed under Section 397(1) r/w 401 of the Code of Criminal Procedure, to set aside the impugned order passed by the learned Judge, Family Court, Madurai in M.C.No.8 of 2011 dated 16.09.2014.

For Petitioner : Mr.K.K.Kannan

For R1 : Mr.P.Siva Subramanian

**ORDER**

This Criminal Revision Case is filed to set aside the impugned order passed by the learned Judge, Family Court, Madurai in M.C.No.8 of 2011 dated 16.09.2014.

2.As per the submission of the learned counsel for the petitioner/husband, the petitioner herein is the husband and a maintenance case in M.C.No.8 of 2011 was filed by the respondent/wife before the Family Court, Madurai. The learned Judge, Family Court, Madurai after conducting an enquiry, passed an order on 16.09.2014, directing the petitioner herein/husband to pay a sum of Rs.2,000/- per month to each of the respondents herein (Totally a sum of Rs.4,000/- per month) towards monthly maintenance from January 2011 onwards and also directing him to pay a sum of Rs.5,000/- towards litigation expenses.

3.Aggrieved by the order passed by the learned Judge, Family Court, Madurai, this Criminal Revision Case had been filed by the petitioner/husband.

4.The revision is of the year 2017. Till the case was taken up for consideration, the petitioner/husband had not paid the amount and had cleverly protracted the proceedings from the year 2017 till the case was taken up for arguments on 02.07.2021 by this Court.

5.The learned counsel for the 1<sup>st</sup> respondent/wife had already furnished written arguments. When the learned counsel for the

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petitioner/husband was directed to argue the case, he had stated that the petitioner/husband is working as Karathe Master in a private school and if the respondent/wife is ready to join with the petitioner, he is ready to take her back, that is the only prayer sought for by the petitioner/husband herein.

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6. On consideration of the order passed by the learned Judge, Family Court, Madurai, it is found that the respondent/wife had approached the Court by way of filing a maintenance petition contenting that her husband, who is the petitioner herein, had ill-treated her and abused her after taking Alcohol for more dowry. Therefore, she was forced to leave the matrimonial home, due to the abusive behavior of the petitioner/husband.

7. Under those circumstances, the admitted fact that the petitioner has filed the present revision case after a period of 7 years from the date of passing of the impugned order and after a period of 10 years from the date of filing of the claim petition cannot at all be accepted. A wife, who had suffered abuses by the husband, cannot be directed by the Court to join with her husband. Therefore, the contention of the learned counsel for the petitioner/husband for reunion cannot at all be accepted by this Court. The present Criminal Revision Case had been filed only to protract the proceedings for avoiding payment.

8. The learned counsel for the 1<sup>st</sup> respondent/wife had submitted that the petitioner/husband had filed HMOP.No.254 of 2008 and he had himself withdrawn the said HMOP without any proper reason. Then, he filed HMOP.No.404 of 2009 for divorce. The divorce petition was dismissed by the very same learned Judge, Family Court, Madurai and the maintenance case filed by the 1<sup>st</sup> respondent/wife was ordered on the same day on the ground of desertion. The relevant portion of the order passed in HMOP.No.404 of 2009 was quoted by the learned counsel for the 1<sup>st</sup> respondent/wife and the same, which was reproduced in paragraph Nos.9 and 10 of the written arguments filed by the respondents, is as follows:-

*"9. The relevant portion of the order in HMOP.No.404 of 2009 is reproduced here for perusal of this Hon'ble Court. That is at page 16 of the type set of the petitioner herein, from line No.6.*

*"If really the petitioner is intended for reunion, he ought to have taken steps through Court of law. Even though he filed a petition for restitution of conjugal rights in HMOP.No.254 of 2008, but he has withdrawn the case without any reason. But he deposed that due to apprehension to live with the respondent he has withdrawn the application. But it is not acceptable one. He gave a complaint before All Woman Police and during enquiry, the respondent expressed her willingness for reunion*



with separate residence. But the petitioner has not taken any steps to fix a separate residence. It is also an admitted fact that near about 8 years, the petitioner not maintained the respondent and the child even though he is doing Karate Master work. The petitioner failed to establish that the respondent voluntarily deserted him without any reason. On the other hand the respondent able to establish that due to the dowry demand made by the petitioner and his family members she was forcibly left the matrimonial home. She always expressed her willingness to live with the petitioner. For the reason best known to the petitioner, he evaded to maintain the respondent and the child. There is no bonafide reason on the part of the petitioner and he want to escape from the clutches of the matrimonial life. The allegations are unsustainable one. As per the evidence P.W2, it clearly reveals that he is only supporting the contention of the petitioner. He has not taken any steps to reunion. He attended the enquiry made by All Women Police along with the petitioner. He admits that during enquiry, the respondent insisted for separate residence and always wanted to live with the petitioner. So, the evidence of P.W2 also reveals that the respondent is always intended for reunion with the petitioner. So, the reasons stated by the petitioner are not sufficient to grant divorce. The petitioner failed to establish that he was voluntarily deserted by the respondent accordingly the petition is dismissed."

10. Similarly, the relevant portion of the order in M.C.No.8 of 2011 is also reproduced here for perusal of this Hon'ble Court. That is at page 23 of the type set of the petitioner herein, in para 7 from last but one line:-

"It is also an admitted fact that from the birth of the child, the 1st petitioner (wife) and the minor child are living at the mercy of her parents near about 8 years. The respondent (husband) also admits that he has not paid any maintenance to the petitioners near about 8 years..... The respondent has not produced any document to show that the 1st petitioner is having sufficient source of income. He also not produced any document to show that he maintained the 1st petitioner and the child. Anyhow, as a husband and as a father he is bound to maintain the petitioners. He has no other source of income. Admittedly, he is working as a Karate Master. The respondent contended that he is earning 5,000/- per month. As a Karate Master, he could



as well as the economic status of the respondent, fluctuation of prices and educational expenses of the 2nd petitioner, he is directed to pay a sum Rs. 2,000/- per month to each of the petitioners (Totally a sum of Rs.4,000/- per month) towards monthly maintenance from January, 2021 onwards till modification. He is also directed to pay a sum of Rs.5,000/- towards litigation expenses.""

9.On consideration of the written arguments, it is found that passing of the order in the maintenance case, the respondent/husband before the learned Judge, Family Court, Madurai had been delaying in payment. Therefore, Cr.M.P.Nos.99 of 2015 and 74 of 2016 were filed and the petitions were also taken up for consideration by the learned Judge, Family Court, Madurai.

10.Further, an order of arrest was passed in the said petitions as arrears of maintenance was not paid. After arrest was ordered, on 21.08.2015, as one of his relative paid a sum of Rs.20,000/- on his behalf and accordingly, the respondent/husband before the learned Judge, Family Court, Madurai was released. As on 09.01.2017, a sum of Rs.2,03,500/- is the outstanding due from the petitioner/husband. Therefore, the learned Judge, Family Court, Madurai directed the petitioner/husband to pay the balance amount. Again the petitioner/husband evaded the same. Therefore, NBW was issued against the petitioner.

11.After the filing of the revision petition, this Court had directed the petitioner/husband to pay 50% of the arrears of maintenance and as such, he has paid only Rs.50,000/- till 13.07.2017. Subsequently, there is an arrears of Rs.3,55,500/- till July 2021.

12.Considering the arrears to be paid by the petitioner/husband to the respondent/wife, the attitude of the petitioner is only to protract the proceedings. Therefore, this Revision Case has no merits and accordingly, it is dismissed as having no merits. The learned counsel for the respondent/wife is directed to take appropriate steps through the learned Judge, Family Court, Madurai regarding payment of arrears.

13.In the result, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (A.D.II)

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Sub Assistant Registrar(CS)

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To  
The Judge,  
Family Court,  
Madurai

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+1 CC to M/s.K.K.KANNAN, Advocate ( SR-24638[F] dated 30/07/2021 )  
+1 CC to M/s.P.SIVASUBRAMANIAN, Advocate (SR-24838[F] dated  
30/07/2021)

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RD(6.08.2021) 5P 4C