



CrI.R.C.No.98 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

CrI.R.C.No.98 of 2020

and

CrI.M.P.No.602 of 2020

E.Loganathan

... Petitioner

Vs.

1. L.Kavitha

2. Minor.Kirisha

3. Minor.Vedhika

[Respondents 2 and 3 are
represented by their mother
guardian/next friend/the first
respondent L.Kavitha]

... Respondents

Prayer:

Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C., to call for the entire records in connection with the F.C.M.C.No.82 of 2018 on the file of the learned Family Court Judge, Vellore, Vellore District and set aside the order dated 15.11.2019.



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For Petitioner : Mr.E.Kannadasan

For Respondents : Mr.S.Raja Ravivarma

ORDER

This Criminal Revision Case has been filed against the order dated 15.11.2019 passed in F.C.M.C.No.82 of 2018 on the file of the Judge, Family Court , Vellore.

2. Petitioner is the husband. The first respondent is the divorced wife. Second and third respondents are their children. The petitioner has filed a petition for divorce against the first respondent before the Family Court, Vellore and it was ordered on 14.06.2018 in favour of the petitioner on the ground of cruelty. The respondents filed the maintenance case in F.C.M.C.No.82 of 2018 on the file of the Family Court Judge, Vellore. After enquiry, the Judge, Family Court directed the petitioner to pay sum of Rs.5,000/- per month to each of the respondents towards maintenance

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amount and sum of Rs.10,000/- towards litigation expenses. Aggrieved over the same, the petitioner has filed the present Criminal Revision Case.

3. Learned counsel for the petitioner would submit that the Criminal Revision Case would not lie as per latest decisions of this Court. However, the petition under Section 125Cr.P.C., itself summary in nature, hence this Court is not agreed with the contention of the learned counsel for the petitioner.

4. Learned counsel for the petitioner/husband would submit that the first respondent/wife has not discharged her duties as a dutiful wife. The petitioner has filed a petition for divorce against the first respondent before the Family Court, Vellore and it was ordered on 14.06.2018 in favour of the petitioner on the ground of cruelty. Since the same has not been challenged by the first respondent, order passed by the competent court attains finality. Hence the first respondent is not entitled to get any maintenance amount from the petitioner. However, even now, all the respondents are residing under the same roof. He purchased the property in the name of his wife/the



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first respondent. The Judge, Family Court did not accept the same, since the petitioner has not produced any documentary evidence to show that he purchased property in the name of the first respondent. He submitted that he is ready to maintain the children. Further he submitted that he is not liable to pay maintenance amount to his wife on two reasons. One of the reason is he obtained divorce from the first respondent on the ground of cruelty and the other is she has not behaved as a normal wife and she has not taken care of the husband as a dutiful wife.

5. Per contra, learned counsel for the respondents would submit that as a dutiful husband, the petitioner is liable to pay maintenance amount to the first respondent and as a dutiful father, he is liable to pay maintenance amount to the children. When the petitioner is having sufficient means and the respondents are unable to maintain themselves, the petitioner failed to maintain the respondents. Hence, they filed the maintenance case in F.C.M.C.No.82 of 2018 on the file of the Family Court, Vellore. Though they are residing in the same roof, petitioner is not providing any support to run the family. Unless the petitioner pay the maintenance amount, it is



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difficult to provide good education to the children. Hence, the Judge, Family Court rightly ordered maintenance amount and there is no merit in this Revision Case and the same is liable to be dismissed.

6. Heard learned counsel on either side and perused the materials available on record.

7. Admittedly, petitioner and the first respondent are husband and wife. Second and third respondents are their children. The petitioner has filed a petition for divorce against the first respondent in FCOP.No.69 of 2015 before the Family Court, Vellore and it was ordered on 14.06.2018 in favour of the petitioner on the ground of cruelty. No doubt, divorced wife is also entitled to get maintenance, whereas, in this case, the petitioner has got divorce on the ground of cruelty and the same has not been challenged by the first respondent/wife. Since the petitioner got divorce on the ground of cruelty against the first respondent, she is not entitled to get any maintenance amount from the petitioner. Hence the impugned order passed by the Judge, Family Court is set aside regarding the maintenance amount to



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the wife/first respondent. Paternity of the children are not in dispute.

Petitioner has fairly conceded that he is liable to maintain his children.

Considering the submission made by the learned counsel for the petitioner and also the raising of cost of living day by day, order passed by the Judge, Family Court is modified that the petitioner is directed to pay a sum of Rs.7,500/- each to the second and third respondents as monthly maintenance. The order of the Judge, Family Court with regard to litigating expenses is confirmed.

8. With the abovesaid modification, Criminal Revision Case is partly allowed. Consequently, connected miscellaneous petition is closed.

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Index:yes/No

Internet:yes/No

To

The Family Court Judge, Vellore.

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P.VELMURUGAN, J.

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