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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CrI.R.C.No.87 of 2022

Thirumurugan

... Petitioner

Versus

Dhanam

... Respondent

Prayer: Criminal Revision Case filed under Section 397 and 401 Cr.P.C., 1973 read with Section 19(4) of the Family Courts Act, 1984, to set aside the order passed in F.C.M.C.No.11 of 2018, dated 20.11.2021 on the file of the Family Court at Ariyalur, by allowing the present Criminal Revision Petition.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mrs.Usha Raman

O R D E R

This Revision is filed against an order directing the petitioner to pay the monthly maintenance of Rs.5,000/- to the respondent/wife.

2. The learned Counsel for the petitioner would submit that in the year 2006, as a matter of fact, the petitioner was abducted and was forced into the marriage in the Police Station. Therefore, the couple did not live together even for a single day. The petitioner has already filed a petition for divorce. Unfortunately, the said petition has been dismissed and a Civil Miscellaneous Application is now pending. Pending these proceedings, now the respondent/wife has filed a petition for maintenance.

3. The learned Counsel for the petitioner would submit that the petitioner has moved on in life and he has married to another person and he is having a family consisting of two children also. He is only an agricultural coolie. Under these circumstances, he is unable to pay an amount of Rs.5,000/- towards maintenance. Therefore, the learned Counsel would submit that in view of the fact that the wife did not live



together even for a single day, the very factum that the marriage is disputed and the capacity to pay monthly maintenance is also not there and therefore, prayed that this Court should interfere with the order of maintenance.

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4. As far as the dispute of marriage is concerned, the petitioner himself has filed a petition for divorce and therefore, that amounts to admission of marriage and shows that the respondent is his wife. The second contention is that the respondent did not live together even for a single day is without any legal basis. The point, to deny the maintenance to the wife, is that if she is living separately without any sufficient reason as per Section 125(4) of the Code of Criminal Procedure. But, in this Case, admittedly, the petitioner himself states that he has married to another lady and is living with a family and even without obtaining divorce from the respondent. Because the petitioner is an agricultural coolie, barest minimum of sum of Rs.5,000/- is only ordered by the Trial Court. It cannot be reduced any further. Even an agricultural coolie nowadays, by undertaking work under MGNREGA scheme and other labour can earn not less than a sum of Rs.15,000/- per month. Under these circumstances, the sum of Rs.5,000/- cannot be termed as excessive or exorbitant.

5. Therefore, there are no merits in this Criminal Revision Case and the same is dismissed. Consequently, CrI.M.P.No.910 of 2022 is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

grs

To

1. The Judge,
The Family Court at Ariyalur

+1cc to Mrs.Usha Raman, Advocate, S.R.No.36663

+1cc to Mr.R.Jayaprakash, Advocate, S.R.No.37114

CrI.R.C.No.87 of 2022

SV(CO)
CT/30/06/2022