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Crl.R.C.No.1145 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1145 of 2022

and

Crl.M.P.No.12841 of 2022

K.Natarajan

... Petitioner

Versus

N.Prema

... Respondent

Criminal Revision Case filed under Sections 397 r/w 401 of Criminal Procedure Code to set aside the order passed by the Family Court at Chengalpattu in F.C.M.C.No.2 of 2017 dated 07.07.2022.

For Petitioners : Mr.M.Jaikumar

For Respondents : Mr.R.Balachanderan

ORDER

This Criminal Revision Case has been preferred challenging the order dated 07.07.2022 passed in F.C.M.C.No.2 of 2017 on the file of the Family Court, Chengalpattu.

2. The petitioner is the husband and the respondent is his wife.
3. The respondent/wife filed a petition under Section 125 Cr.P.C before



the Family Court, Chengalpattu in F.C.M.C.No.2 of 2017 seeking maintenance of Rs.15,000/- per month. The Family Court awarded a sum of Rs.10,000/- per month as maintenance to the respondent/wife. Aggrieved by the said order, the petitioner/husband has filed the present revision.

4.The learned counsel for the petitioner submitted that the respondent/wife has caused cruelty and she was voluntarily left the matrimonial home without any valid reason. Therefore, the petitioner has filed a petition seeking divorce on the ground of cruelty and obtained divorce. He further submitted that the petitioner had taken care of his son's education and now his son is earning more than Rs.1,50,000/- and the respondent/wife is with her son. The respondent has not come with clean hands and she has filed the maintenance case only in order to harass the petitioner and not for the reason that she is not able to maintain herself. However, the Family Court failed to consider the Ex.R13/order dated 15.11.2016 in F.C.O.P.No.149 of 2015 in which the petitioner got divorce on the ground of cruelty against his wife simply awarded a sum Rs.10,000/- per month as maintenance only on the ground of sympathy, which warrants interference of this Court.

5. The learned counsel for the respondent/wife submitted that the



petitioner/husband has not produced any documents to prove that he has taken care of his son's education and now his son is earning more than Rs.1,50,000/-. He further submitted that the monthly salary of the petitioner is Rs.82,429.16/-, after deductions, he is getting Rs.79,033/-. The Family Court after taken into consideration the facts and circumstances and also the financial status of the petitioner awarded a sum of Rs.10,000/- per month as maintenance. He further submitted that even the respondent is with her son, it is the legal responsibility of the husband to maintain his wife. Therefore, the Family Court has rightly awarded maintenance and it does not require any interference.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondent and also perused the materials available on record.

7. Admittedly, the relationship between the parties are not in dispute. The petitioner obtained divorce from the respondent on the ground of cruelty, however, the said order was not challenged by the respondent. More so, the respondent is residing with her son, who is earning decent salary. Even otherwise, there is a bar under two grounds for claiming maintenance by wife



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i.e., if the wife is living in adultery or left the matrimonial home voluntarily without any valid reason or if they are living separately by mutual consent, she is not entitled for any maintenance amount from her husband. In the case on hand, the petitioner/husband had obtained divorce on the ground of cruelty and hence, she is not entitled for maintenance. The Family Court failed to consider the said facts, awarded maintenance and hence, the order passed by the Family Court is liable to be set aside.

8. In the light of the above facts, this Criminal Revision Case is allowed by setting aside the order dated 07.07.2022 passed in F.C.M.C.No.2 of 2017 by the learned Judge, Family Court, Chengalpattu. Consequently, connected miscellaneous petition is closed.

11.11.2022

Index : Yes/No
Speaking Order/Non Speaking Order
ms



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To

The Judge,
Family Court,
Chengalpattu.



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P.VELMURUGAN, J.

ms

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