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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02/12/2022

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The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.RC(MD)No.89 of 2022

Thirukumar : Petitioner

Vs.

1.Kanimozhli
2.Minor Harshavarathan
(R2 represented by
his mother and natural guardian/
1st respondent herein) : Respondent

Prayer:- This Revision has been filed under section 397(1) r/w 401 of the Criminal Procedure Code to call for the records in MC No.23 of 2020 on the file of the Family Court, Ramanathapuram and set aside the order, dated 30/09/2021.

For Petitioner : Mr.K.Prakash

For Respondents : Mr.M.Viji

**ORDER**

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This Criminal Revision has been filed seeking in order to set aside the order, dated 30/09/2021 passed in MC No.23 of 2020 on the file of the Family Court, Ramanathapuram.

2.The facts in brief:-

The marriage between the petitioner and the first respondent was performed, on 28/12/2014 as per their customary rites. On 18/03/2016, the second respondent born. According to the wife, right from the marriage, the husband used to come late in the night in a drunken mood. Even that was informed to the parents of the husband, they did not take proper care. During the above said period, the husband received the jewels for the purpose of his business requirement. Even the birth of the child was not properly enquired and visited. Later, it came to know that the husband was having illicit intimacy with so many women. When that was objected, she was abused and ill-treated. Because of the above said ill-treatment, the wife went to the parental home along with the child. Whenever compromise talk was moved, that was resisted by



the husband's family stating that they must bring 10 sovereigns of gold jewels and Rs.50,000/- cash. Over the above said occurrence, a case was registered in Uchipuli police station. The husband and his family members also demanded execution of the document expressing consent for divorce. Later, a case was registered against the husband on 22/04/2020 for having smuggled the liquor bottles. Only because of the above said circumstances, there is no joint living. So the above said petition has been filed seeking maintenance amount of Rs.15,000/- each to her and the child, since the husband is earning Rs.50,000/- per month.

3.That was resisted by the husband stating that all the allegations made in the petition has been denied as false. He is also ready to maintain the child.

4.At the conclusion of the enquiry, the trial court found that there was sufficient reason for the wife to live separately and so, totally Rs.11,000/- was ordered as maintenance to the respondents.



5. Now seeking to set aside the above said order, this revision has been preferred by the husband.

6. Finding that there is no big dispute between them and the trouble arose between the parties, over the conduct of the husband, the matter was referred to the Mediation and Conciliation Centre, attached to this Bench for settlement, but it could not be settled for some unknown reasons.

7. Now the learned counsel appearing for the petitioner would submit that only the first respondent deserted voluntarily and staying away from the matrimonial home and in the absence of any evidence to show that there was ill-treatment or harassment, at the hands of the husband, there is no reason or sufficient cause for the first respondent to live separately.

8. But from the pleadings of the parties as well as the evidence, it is seen that some sort of allegation has been made against the petitioner with regard to the conduct and behaviour. There is total denial on behalf of the petitioner with regard to all those allegations.



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9.It is seen that several criminal cases have been registered against the petitioner. It is also admitted by the petitioner to the effect that a case was registered against him Kenikkarai Police Station. Only trouble was made by the first respondent that the petitioner is having illicit intimacy with one Kavya. Over the above said occurrence, the mother of the above said Kavya has given a statement. So this has been taken into account by the trial court to show that the petitioner did not keep his good conduct.

10.It is also seen that the brother of the first respondent was married to the sister of the husband. Since there was some matrimonial issue between them, they separated and because of the above said separation, trouble has arisen between the petitioner and the first respondent. In the meantime, the first respondent's brother was married to some other girl as second marriage. Against the above said marriage, the petitioner filed a complaint. More-over, the consent divorce document was taken into consideration by the trial court on the ground that under force and pressure, the above said document has been obtained.



11.By taking all those developments and the occurrences, the trial court found that there are sufficient reasons for the wife to live separately.

12.From the narration of the above discussion and the findings by the trial court, it is seen that as mentioned above, because of the character and conduct on the part of the petitioner, trouble has arisen and later that also worsened, due to the matrimonial issue between the brother of the first respondent and the sister of the petitioner. It appears that it is a chain event and due to it, trouble has arisen one after another. So in the above said circumstances, the argument that the first respondent voluntarily deserted the matrimonial home and living separately is not supported by any circumstantial evidence. So, I find no reason to differ the view that has been taken by the trial court.

13.With regard to the maintenance amount also, I find no reason to interfere with the order of the trial court since it is a reasonable one.

14.In the result, this criminal revision fails and



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the same is **dismissed**.

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02/12/2022

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To,

The Family Court,
Ramanathapuram.

G . ILANGO VAN , J



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