



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2022

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.R.C. (MD)No.177 of 2020

and

Cr1.MP(MD) No.1539 of 2020

Murugan

... Petitioner/Respondent

Vs.

Muthupandiammal

... Respondent/Petitioner

Prayer: This Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. to call for records to set aside the order in M.C.No.3 of 2017, dated 28.01.2020 on the file of the Learned Judicial Magistrate No.2, Usilampatti.

For Petitioner : Mr.K.Viralinathan

For Respondent : No appearance

O R D E R

This Criminal Revision Petition has been filed challenging the order in M.C.No.3 of 2017, dated 28.01.2020 on the file of the Learned Judicial Magistrate No.2, Usilampatti, thereby, ordered maintenance of Rs.3,000/- payable by the petitioner to the respondent/wife.

2.The learned counsel appearing for the petitioner would submit that the petitioner already filed a petition for divorce and the same was allowed in HMOP.No. 203 of 2007, by an order dated 22.07.2008. Thereafter, the respondent filed a maintenance case in M.C.No. 3 of 2017, on the file of learned Judicial Magistrate, No.II, Usilampatti. The respondent without any reason deserted the petitioner, along with their children living separately. He would further submit that all the three sons are well grown and all are well off. In fact, the respondent only leaving him and she does not require any maintenance.

3.That apart, the petitioner is a pensioner and drawing monthly pension of Rs.5,994/- and he is also hailing from all age old ailments. Though, notice served and council engaged on behalf of the respondent, no one appeared on behalf of the respondent.



4. On perusal of records, it is revealed that there is no evidence to show that the respondent is living with her three sons. It is true that the petitioner is drawing a sum of Rs.5,994/- as his monthly pension. Further, there is also no evidence to show that the respondent only deserted the petitioner and living separately without any reason. In fact, the petitioner filed petition for divorce in H.M.O.P.No. 203 of 2009, on the ground of cruelty. Therefore, it does not mean that the respondent deserted the petitioner without any valid reason and the petitioner is entitled for a maintenance even after divorce. However, the quantum of maintenance is liable to be reduced to Rs.2,000/- from Rs.3,000/-.

5. Accordingly, this Criminal Revision Petition is partly allowed by modifying the quantum of monthly maintenance amount as Rs.2,000/- (Rupees Two Thousand only) instead of Rs.3,000/-, payable by the petitioner to the respondent. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2022

Sub Assistant Registrar

PNM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate, No.II, Usilampatti.

+1 CC to M/s.K.VIRALINATHAN, Advocate
(SR-9571[F] dated 02/03/2022)

ORDER IN

Cr1.R.C.(MD) No.177 of 2020
and

Cr1.MP(MD) No.1539 of 2020
02.03.2022