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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 25/11/2022

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.RC(MD)No.168 of 2021

and

Crl.MP(MD)No.1647 of 2021

Akbar Ali : Petitioner/Respondent

Vs.

Sabur Nisha : Respondent/Petitioner

PRAYER:- This Criminal Revision has been filed under section 397 and 401 of the Criminal Procedure Code, to call for the records and set aside the impugned order, dated 29/07/2020 and made in MC No.45 of 2018 on the file of the Family Court, Sivagangai.

For Petitioner : Mr.S.Srinivasa Raghavan

For Respondent : No appearance

O R D E R

This Criminal Revision has been filed against the order, dated 29/07/2020 and made in MC No.45 of 2018 on the file of the Family Court, Sivagangai.

**2. The facts in brief:-**

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The marriage between the parties performed, on 11/05/2016 as per their customary rites. After that, they were living together for about 20 days. After the above said marriage, the husband went abroad for job and used to visit only once in a year. At that time, the mother and sister of the husband, ill-treated the wife and the husband was also not properly taken care to maintain the wife. On 23/07/2017, she was driven out of the house and now, she is living with her aged mother. In spite of the compromise talk undertaken, the husband has not taken any steps for reunion, instead, he was ill-treated and also criminally intimidated, over which, a police complaint was given, on 08/10/2017 before the Elanyankudi Police Station and subsequent complaints were also given to the Superintendent of Police, Sivagangai, on 17/01/2018 and 07/02/2018. The husband is owning seven shops in abroad thereby earning Rs.80,000/-. Apart from that, he is also having agricultural lands. So, seeking maintenance amount of Rs.10,000/-, the above said petition was filed by the wife before the trial court.



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3. That was resisted by the husband stating that he was already married to one Jesima Yasmin and he had three female children and later, there was separation. So the above said Jesima Yasmin was divorced in 2016. Two female children are in the custody of the husband. Having known all these history only, the respondent was married him and only the wife ill-treated the children born through the first wife. On coming to know about such a conduct, he warned the wife. But she has not corrected herself. She voluntarily deserted the matrimonial home. Now married to some other person. So Muthalaq was pronounced, on 24/02/2018, 30/03/2018 and 02/05/2018. He has also filed a suit for declaration in O.S No.3 of 2018 before the Family Court, Sivagangai. Further enquiry reveals that the wife got divorced from her husband by receiving Rs.5,00,000/- as maintenance amount. She is also pressurizing the husband to pay the above said amount.

4. Before the trial court, on the side of the wife, she was examined herself as PW1 and 4 documents were marked. On the side of the husband, two witnesses were examined and three documents were marked.



5.At the conclusion of the trial process, the Family Court, Sivagangai, held that the wife is entitled to Rs.8,000/- as monthly maintenance from the husband.

6.Challenging the above said award of maintenance amount, this criminal revision has been filed by the husband.

7.Heard both sides.

8.During the course of argument, the learned counsel appearing for the petitioner has submitted that now he is in Malaysia and after Covid period, he returned to India. Now he is jobless. Only quantum and the liability is disputed by the husband.

9.Reading of the order that has been passed by the trial court shows that only the wife deserted the husband, demanding separate residence. Except the statement of the husband, no other material or corroborating evidence has been produced before this court. The contention of the husband that Muthalaq was also pronounced is without any basis.



10.The contention of the husband that the wife got divorce from his first husband and received Rs.5,00,000/- as one time settlement is also not supported by documentary evidence.

11.It is also seen that the husband filed a petition to declare that the marriage between them dissolved by Muthalaq. The wife filed a petition for restitution of conjugal rights. It was also admitted that that the petitioner was working as Waiter in a Hotel.

12.It is further seen that both of them filed suits for vindicating their grievance. Now the suit filed in O.S No.2 of 2018 is pending and what is the stage of the above said two suits is not clear on record.

13.Now whatever it may be, it is seen that the husband was earning sufficiently during the above said period. Whether Muthalaq which was pronounced by the husband is valid or not is the matter for consideration by the concerned Family court, so also the right of the wife to claim the restitution of conjugal rights. So any observation that can be made in this petitioner as to the



14.Regarding the quantum also, only Rs.8,000/- has been ordered to be paid as maintenance to the wife. In the present day economic situation and considering the age of the parties, the above said amount cannot be considered to be luxurious or excessive in nature. No valid ground is raised by the petitioner in this revision. So I find no merit in this revision and accordingly, this revision is liable to be dismissed.

15. In the result, this criminal revision is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

25/11/2022

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To,,

The Family Court,
Sivagangai.



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G.ILANGOVAN, J

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Cr1.RC(MD)No.165 of 2021

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