



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31/10/2022

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CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.RC (MD) No.736 of 2020

V.Appu @ Boopathy : Petitioner/Respondent

Vs.

1.B.Menagagandhi

2.B.M.Sruthika : Respondent/Petitioners

Prayer: Criminal Revision is filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to the impugned order, dated 29/08/2018 made in M.C No.28 of 2016 on the file of the Chief Judicial Magistrate, Tiruchirapalli and set aside the same.

For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.N.Anandha Padmanaban
for M/s.APN Law Associates

O R D E R

This criminal revision has been preferred seeking to set aside the order, dated 29/08/2018 made in M.C No.28 of 2016 on the file of the Chief Judicial Magistrate, Trichy.



2. The facts in brief:-

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It is a matrimonial issue. The marriage between the revision petitioner and the first respondent herein was performed, on 31/05/2010 and it was a love marriage between them. It was also registered in the Sub Registrar Office, Uppiliapuram. After the marriage, they lived separately in their respective parental home. After one year, they disclosed the marriage to their parents. So again, on 10/07/2011, another marriage was performed in the presents of relatives and elders. At that time, she was provided with sufficient house hold articles, etc. On 16/12/2012, the second respondent born. Thereafter there was no issue between them till 02/10/2014. Subsequently, the revision petitioner started demanding money for purchasing an auto. Seeking divorcé, he has also filed HMOP No.132 of 2015 before the Principal Sub Court, Trichy. When the first respondent went to the matrimonial home, on 24/08/2015, she was assaulted by the revision petitioner and his family members. Even though the complaint was given, no action was taken. Claiming maintenance amount of Rs.5,000/- each, apart from the marriage expenses of the 2nd respondent, the above said Maintenance Case was filed.



3. That was resisted by the revision petitioner on the ground that without proper reason, the first respondent deserted him and lived separately. Because of the above said only, he filed HMOP No.135 of 2015 before the Principal Sub Court, Trichy.

4. At the conclusion of the enquiry proceedings, the trial court came to the conclusion that the revision petitioner was having sufficient income and the fact of desertion was not proved and the revision petitioner has not chosen to examine himself as a witness and ordered maintenance of Rs.5,000/- to the first respondent and Rs. 3,000/- to the second respondent.

5. Against which, this revision came to be filed by the revision on very money grounds.

6. It is not disputed that it is a love marriage between the revision petitioner and the first respondent herein. It is an allegation on the part of the first respondent to the effect that after the birth of the child, there was no cordial relationship between them and demanding money, she was ill-treated. He filed a divorce petition before the Principal Sessions Judge, Trichy.



7.Per contra, it is the contention on the part of the revision petitioner that there was voluntary desertion on the part of the first respondent; so the first respondent is not entitled for any maintenance. HMOP No.132 of 2015 was filed on the ground that the first respondent was not attending the domestic works and because of her attitude, he was even assaulted by the brother of the first respondent. On 07/07/2013, the first respondent left the matrimonial home and thereafter, did not return. The compromise that was proposed by him, did not yield any result. So, it appears that there is a petty quarrel between the husband and wife.

8.The above said petition was resisted by the first respondent stating that the revision petitioner was not attending any work and the parents tried to perform the second marriage to the revision petitioner.

9.So reading of both side pleadings shows that due to petty quarrel, they are living separately and the revision petitioner, being the husband and the father of the children namely the second respondent herein ought to have taken steps to restore the first respondent to the matrimonial home.



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10.As usual allegation and counter allegation have been made against each other. In the above said situation, the voluntary act of desertion was not proved. So on that ground, the maintenance amount was ordered. More-over, the income of the revision petition has been clearly established in the trial court. So in the absence of any material evidence, ordering payment of Rs.5,000/- as maintenance to the first respondent and Rs.3,000/- to the second respondent, considering the present economic situation, cannot be considered to be excessive or luxurious in nature. So, I find no ground worth considering in this revision.

11.In the result, this criminal revision fails and the same **dismissed**.

31/10/2022

Index:Yes/No
Internet:Yes/No

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To,

The Chief Judicial Magistrate,
Trichy.



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G.ILANGOVAN, J

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