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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24/11/2022

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

Cr1.RC(MD)No.622 of 2021

and

Cr1.MP(MD)No.6788 of 2021

Guruprasath : Petitioner/Petitioner/
Respondent

Vs.

1.Vinothini

2.Minor Dhanyashri

3.Minor Nandhanashri

(R2 and R3 minors are
represented through their
guardian and next friend
the 1st respondent)

: Respondents/Petitioners

PRAYER:- This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code, to call for the records from the Family Court, Theni, hear the learned counsel for the revision petitioner/respondent and set aside the order passed by the Judge in MC No.31 of 2020, dated 6/02/2022.

For Petitioner : Mr.T.R.Subramanian

For Respondents : No appearance

**ORDER**

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This Criminal Revision has been filed seeking in order to set aside the order passed by the Family Judge, Theni in MC No.31 of 2020, dated 6/02/2022.

2.The facts in brief:-

The marriage between the revision petitioner/husband and the first respondent/wife took place, on 15/07/2012 as their customary rites. At the time of marriage, the husband was working in a Software Company in Bangalore. Right from the marriage, the husband was not properly taking care of the family. After the marriage, they were living in Bangalore. The husband was not regular in his duty also. He was telling that he did not like to work under others. He also later started threatened his wife. In spite of the above said continuous trouble, two children were born to them. Even the second child was not visited by the husband. So the husband used to take them to her parental home and left there. He also stated assaulting the wife under the influence of alcohol. On 08/08/2017, she left along with her child from her matrimonial home. The husband left



stating that he got a job in Japan. He was making call as if he is in Japan. She was informed, on 05/08/2018 that he returned to India. But there was no communication thereafter. So a complaint was given. on 12/08/2018 before the All Women Police Station, Theni. The husband was secured and during the enquiry, it was confirmed that the husband did not go to Japan for a job. Later, they started living in Madurai. Now the husband is working in Nexa Maruthi Car Company. But however, torture continued. Because of the continuous torture, she left the matrimonial home, on 13/07/2019 and now she is living in her parental home. Seeking maintenance amount and other reliefs, the above said petition has been filed before the trial court.

3.It was resisted by the revision petitioner/husband stating that the first respondent/wife filed a petition for divorce against him stating that he attempted to purchase the property in Bangalore from his savings. Later, he was working in IBM Company and now after shifting his residence, he is working in Madurai and earning Rs.20,767/- per month, which is his carry home pay from Onmobile Global Limited. He required Rs.



10,000/- for his maintenance and also for maintaining his aged parents. He has stated that he is ready to live with his wife and children. He has also stated that he is ready to maintain the child, but not the wife.

4. On the side of the wife, three witnesses examined and five documents were marked and on the side of the husband, he was examined as RW1 and 5 documents were marked.

5. At the conclusion of the trial, the trial court came to the conclusion that there was misrepresentation on the part of the revision petitioner/husband to the effect that he is working in Japan and under the above said misrepresentation, he left the wife and the children in her parental home. This, according to the trial court, is nothing, but cheating activity. The trial court also found that only because of the above said conduct on the part of the revision petitioner, the wife and the children were residing in her parental home. So that was the reason for separation.



6. Now coming to the issue of maintenance, as stated by the trial court, the very fact that the revision petitioner misrepresented his job nature clearly shows that he was not keeping his good conduct. On the pretext of staying in Japan, he left the wife and the children in her parental home. So that was the sufficient reason for separation. What happened to the divorce petition that was filed by the wife is not clear on record. So, I find absolutely no reason to differ from the view that has been taken by the trial court as to the above fact of separation.

7. Regarding the income, the grievance of the revision petitioner is that his carry-home pay is Rs. 15,000/-, but the trial court has ordered payment of Rs. 15,000/- to the respondents, finding that he was earning Rs. 20,767/- per month. But finding that the revision petitioner was capable of arranging house in Bangalore by purchase at the cost of Rs. 23,00,000/- shows sufficient source of income. Apart from the above said, maintenance amount was fixed by considering the pay scale of the revision petitioner.



8. So this court is of the considered view that Rs.7,000/- awarded as maintenance to the wife is reduced to Rs.5,000/-. In respect of the child, granting of maintenance amount Rs.5,000/- to each child is the above said amount is reasonable and so, it is confirmed.

9. In the result, this criminal revision is **partly allowed**. The maintenance amount that was ordered to the first respondent/wife is reduced to Rs.5,000/-. In so far as the maintenance amount, that was ordered to the respondents 2 and 3 by the trial court, it is confirmed. Consequently connected Miscellaneous Petition is closed.

24/11/2022

Index:Yes/No
Internet:Yes/No

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To,

The Family Court,
Theni.



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G.ILANGOVAN, J

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