



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.09.2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.449 of 2022
in
Crl.MP(MD)No.5850 of 2022

Shibin David .. Petitioner/Respondent

Vs.

Elis Joshna Mary .. Respondent/Petitioner

Prayer:- Criminal Revision petition is filed under Section 397 r/w 401 Cr.P.C, to call for the records and set aside the order dated 08.12.2021 passed by the Judicial Magistrate, Lalgudi, in M.C.No.14 of 2018.

For Petitioner : Mr.Lenin Kumar. T

For Respondent : Mr.R.Narayanan

ORDER

This Criminal Revision case has been preferred against the order that has been passed by the Judicial Magistrate, Lalgudi, in M.C.No.14 of 2018, dated 08.12.2021.



2.Case in brief:-

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It is a matrimonial dispute between the husband and wife. The wife initiated action under Section 125 Cr.P.C before the Judicial Magistrate, Lalkudi, in M.C.No.14 of 2018 seeking maintenance amount of Rs.30,000/-. The marriage took place on 05.06.2016. At the time of marriage, she was provided with sufficient Sridhanas, household articles etc., Thereafter, she become pregnant. Since there was no proper growth, the child was aborted. Because of the above said illness, she was taken to her parental home. But, the husband and his family members did not visit her. On 03.01.2017, the petitioner went to Lalkudi, Thereafter, he did not visit her. He also disconnected the contact between them. He is working as Assistant Professor in Karunya University, Coimbatore, and receiving a sum of Rs.80,000/- per month as salary.

3.That was disputed by the petitioner on the ground that without his permission, the child was aborted by the respondent. During December 2016, both were living in Kadaloor. After that, they were residing in Coimbatore. In May 2017 without informing to him, she left the matrimonial home. Thereafter, did not return. After waiting for a long time, he filed a petition for divorce and divorce was also granted by the learned Principal District Judge, Kadaloor. He only is paying rent for the



house, where the Sridhanas stored. The wife is capable of maintaining herself. He is receiving only Rs.9,000/- after deduction.

4. On the side of the respondent she was examined herself as P.W.1 and 3 documents marked. On the side of the petitioner, 1 witness was examined and 5 documents marked.

5. At the conclusion of enquiry, the above said order has been passed. Now, challenging the above said order, this revision has been preferred.

6. Since it is a case of revision, scope is limited. The factual aspects has not been projected by the petitioner. He restricted his argument only with regard to the quantum of maintenance.

7. According to him, respondent is also earning Rs.20,000/- per month. He is receiving Rs.47,568/- as net salary and deduction amount has not been taken up by the Court. Reading of the order passed by the enquiry Court shows that Ex.R.5 was marked on the side of the petitioner to show his monthly salary. There is an observation to the effect that the gross pay of the petitioner is Rs.53,311/-. After deduction, he is receiving a sum of Rs.47,528/-.



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8.It appears that the Trial Court took cognizance of the above said document and perused it carefully. The contention on the part of the revision petitioner that he is receiving only Rs.9,000/- after deduction is not at all correct on record. The contention that the respondent is a working lady is not properly proved before the enquiry Court. So, when the gross pay of the revision petitioner is about Rs.53,311/-, awarding maintenance of Rs.8,000/- cannot be consider to be excessive or luxury in nature. So, the amount that has been awarded by the trial court does not even came to 25% of the total salary of the revision petition, which is normal rule for granting maintenance.

9.I find absolutely no illegality or infirmity committed by the enquiry Court in awarding Rs.8,000/- as monthly maintenance to the respondent.

10.The contention that the petitioner is only paying rent for the house that was taken in Coimbatore cannot be a matter for consideration. I find that there is no contra evidence.



11. Accordingly, this Criminal Revision Case is **dismissed**.

Consequently, the connected miscellaneous petition is closed.

20.09.2022

Internet : Yes/No

Internet : Yes/No

dss

To

The Judicial Magistrate,

Lalgudi.



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G.ILANGOVA N.,J.

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