



Crl.R.C.(MD).No.895 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:17.08.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC.(MD).No.895 of 2022

and

Crl.M.P.(MD).No.11821 of 2023

M.Anandan

... Petitioner

Vs.

Sujithra (Minor)

(rep through her mother, natural

Guardian Sivarasi @ Pothumponnu)

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 & 401 of Criminal Procedure Code, to call for the records relating to the impugned order dated 23.05.2023 made in M.C.No.18 of 2021 on the file of the Additional Chief Judicial Magistrate Court, Madurai and set aside the same.

For Petitioner : Mr.V.Pandian

ORDER

This Criminal Revision Case has been filed against the impugned order dated 23.05.2023 made in M.C.No.18 of 2021 on the file of the Additional Chief Judicial Magistrate Court, Madurai



WEB COPY

2. The petitioner herein married one Sivarasi @ Pothumponnu. Out of their wedlock, the respondent was born. Due to some dispute between the petitioner and his wife, the petitioner filed H.M.O.P.No.128 of 2022 for divorce. During pendency of the divorce proceedings, according to the petitioner, there was a compromise and as per the compromise, the petitioner is said to have granted permanent alimony to his wife. On the basis of the compromise, by order dated 19.12.2012 an exparte divorce was granted. Thereafter, the respondent herein, who is the daughter of the petitioner, filed the maintenance case in M.C.No.18 of 2021 seeking maintenance for her livelihood.

3. The trial Court, after considering the oral and documentary evidence granted a sum of Rs.7,000/- as monthly maintenance till the respondent herein attains majority. The trial Court specifically held that the case of the petitioner that there was a delay in payment of permanent alimony is not proved. Further the petitioner is working as a mason and earning more than a sum of Rs.1,000/- per day and also he had a house and hence, he is duty bound to maintain his child by paying a sum of



Rs.7,000/- as monthly maintenance. Challenging the same, the petitioner filed this criminal revision case before this Court.

4.The learned counsel for the petitioner submitted that the divorce granted in the year 2012 against the mother of the respondent and there was a payment of permanent alimony to the mother of the respondent. To prove the same, Ex.R2 was exhibited and the same was not properly considered by the learned trial judge. Hence, he seeks for dismissal of the claim of the respondent.

5. This Court considered the submission of the petitioner and also perused the materials available on record including the document Ex.R2 produced by the petitioner.

6. The petitioner admitted the relationship of the respondent as his daughter. The only challenge of the petitioner is that there was a payment of permanent alimony to the respondent and his mother, during the course of divorce proceedings.



7. On perusal of the order and decree in H.M.O.P.No.128 of 2012, there was no reference about the settlement of the permanent alimony. Hence, the learned trial Judge, after considering the evidence of the petitioner and the respondent and the evidence P.W.2, clearly given a finding that the plea of the petitioner is that there was already a permanent alimony has not been established. Further, before this Court also, the petitioner has not substantiated his plea of payment of permanent alimony. This Court also does not find any material from the evidence on record. Therefore, in the absence of any acceptable evidence, this Court concurs with the findings of the learned trial Judge that the petitioner has not proved his case of payment of permanent alimony during the course of H.M.O.P.No.128 of 2012. In such case, he is duty bound to maintain his daughter, namely, the respondent herein.

8. According to the finding of the learned trial judge, the petitioner is earning a sum of Rs.1000/- per day and also he has own house. Therefore, the monthly maintenance amount arrived at by the learned trial judge is in accordance with law. The respondent is the daughter of the petitioner, hence, even though the divorce was granted between the



Crl.R.C.(MD).No.895 of 2022

petitioner and the mother of the respondent, the relationship between the respondent and the petitioner is subsisting one and hence, he is duty bound to maintain his daughter. Therefore, this Court finds no merit in this case.

9. Accordingly, the criminal revision petition stands dismissed. Consequently, connected miscellaneous petition is closed.

17.08.2023

NCC :Yes / No
Index :Yes / No
Internet :Yes / No

sbm

To

The Additional Chief Judicial Magistrate Court,
Madurai.



WEB COPY



CrI.R.C.(MD).No.895 of 2022

K.K.RAMAKRISHNAN, J.

sbn

CrI.RC.(MD).No.895 of 2022

17.08.2023