



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20/12/2022

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CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.RC(MD)No.684 of 2022
and
Crl.MP(MD)No.8474 of 2022

K.Sekar : Petitioner/
Respondent

Vs.

1.Sanmugavalli
2.Minor Sathikasri
(now name changed as Sanriyaa)
represented by her mother : Respondent/Petitioner

Prayer: Criminal Revision is filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records relating to the order passed by the Family Court, Karur, in MC No.42 of 2018, dated 08/04/2022 and set aside the same.

For Petitioner : Mr.V.Sukumar

For Respondents : Mr.K.Sivabalan

O R D E R

This criminal revision has been filed against the order passed by the Family Court, Karur in MC No.42 of 2018, dated 08/04/2022.



2.It is a matrimonial issue between the husband and wife. The marriage between the husband and wife took place on 30/03/2015 as per their customary rites in Aravakurichi.

After the marriage they were living in a joint family in Natupalayam Village. Within 15 days of the marriage, the revision petitioner started demanding additional dowry, jewels etc., after the marriage within 33 days, she was assaulted stating that she was responsible for the death of his father. At that time, the husband was working in a private concern as a Senior Programmer and earning Rs. 50,000/-. Even though the deposit made by the parents for purchasing jewels, household articles, etc, she was harassed. After six months of the marriage, she became pregnant. At that time, she was taken to his parental home for further treatment. Even at that time, she was not treated properly, she was not provided with basic amenities and money etc. for daily expenses. She was taken to her parental home for bangle wearing ceremony on 17/02/2016. she delivered a child on 02.04.2016. Even after the birth of a child, the ill-treatment continued. She was driven out of the house by taking the child, she came to her parental home. The revision petitioner stated that he is going to perform second marriage. A compromise was arranged. The revision petitioner promised to take them to Chennai. But even then there was no response. During the joint living, the jewel was also taken stating that they have to raise



money to meet out the expenses. The revision petitioner is having several properties and even for the education expenses of the child, no money was paid. So claiming Rs. 20,000/- each toward maintenance amount, petition was filed.

3. That petition was resisted by the husband stating that all the allegations with regard to the ill-treatment, demand of dowry, demand of money etc were denied. It has been stated that till 6 months of pregnancy both were in Chennai and only after six months she was taken to his parental home. At the time of naming ceremony of the child the first respondent family members demanded that the properties must be divided and sale deed must be executed in her name. But in spite of the request and compromise the first respondent did not agree. Right from the marriage, there was a demand by the first respondent for partition of the property and a separate house. Even after pregnancy, she demanded the very same things. Even at that time of naming ceremony she was continuing the very same demand. Even the name of the child was also changed without his consent. It has been stated that the wife is working as Lab Assistant in Karur Thalavaipalayam M.Kumarasamy Engineering College and earning Rs.25,000/- per month.



4. Before the trial court, on the side of the wife, she was examined herself as PW1 and 22 documents were marked and on the side of the husband, 2 witnesses were examined and 4 documents marked, apart from that Ex.X1 was marked as court document.

5. At the conclusion of the enquiry, the trial court found that the respondents are entitled for claiming maintenance and accordingly, granted Rs.10,000/- each.

6. Challenging the above said this revision has been preferred by the husband.

7. The matter was sent for mediation and that process also failed. The reason for that is not known.

8. The learned counsel appearing for the petitioner/husband would submit that because of several cases having filed by the wife against the revision petitioner absolutely, there is no possibility of reunion. The reason for the issue between the husband and wife is not properly stated. There was a trivial issue between the wife claiming separate house etc. So according to the revision petitioner, without reasonable and sufficient cause the first respondent is living separately and she is not entitled for maintenance. Apart from that it



has been stated that the wife is working as Lab Technician in a private Engineering college in Karur.

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9.Per contra the learned counsel appearing for the respondents would submit that she is ready for reunion and the house which belongs to the revision petitioner was having only one room and there was no sufficient space for joint living and even the basic amenities were not provided. On that occasion, she demanded separate house which according to her is reasonable one. It is also submitted by the respondents that the monthly salary of the first respondent is only Rs.9,500/- which is not sufficient for maintaining herself and her children.

10.With these arguments and background, let us go to the evidence on record.

11.The marriage and the birth of the child is not disputed. Similarly the job of the revision petitioner is also not disputed. The ground that there is no sufficient reason for separate living. But as mentioned earlier, it is contended that the above said house was not available basic amenities and having only one room. But there is noting on record to show whether the above said submission are true or correct. There is no proper proof with regard to the demand of dowry, money etc., it appears that because of the



above said trivial issue only now they are living separately. It is the duty of the husband to maintain the wife and child. As mentioned earlier, it is only a trivial issue and husband is ready for reunion. The revision petitioner as mentioned earlier has stated that because of filing of several false complaints upon him by the wife absolutely there is no possibility of reunion. The time will only tell the possibility of reunion. Unless there is change in the mind of the revision petitioner, reunion in the immediate future is not possible. I am of the considered view that there is sufficient reason for separate living.

12. With regard to the quantum, it is admitted by the first respondent that she is earning Rs.9,500/- per month by working in a private Engineering College, which is according to her, is not sufficient enough for herself and for maintaining the child.

13. In the grounds of revision, it has been stated that a suit in O.S No.402 of 2020 was filed for partition by the second respondent herein namely the child through her mother and natural guardian and that was taken into account by the trial court. The document with regard to the above said suit in O.S No.402 of 2020 has been produced by the revision petitioner. The suit has been filed with



regard to 1/3rd of the second respondent in the ancestral property and further result of the suit said suit is not available on record. Simply because the suit for partition has been filed, it cannot be stated that the second respondent has derived benefit out of the above said suit and the properties. So it has no bearing upon the issue now.

14. With regard to the above said issue, it was proved that the revision revision was drawing Rs.63,200/- per month after deducting, he was drawing Rs.59,000/- per month. So considering the above said income, Rs.10,000/- each has been fixed. There is no denial to the effect that the revision petitioner was drawing gross amount of Rs. 63,200/- at the time of the enquiry. Deduction cannot be taken into account and only the gross amount can be taken into account. Considering the relevant status of the parties even though Rs.10,000/- has been granted as monthly maintenance to the wife, considering the fact that she was also earning Rs.9,500/- per month, I am of the considered view that above said amount can be reduced to Rs.5,000/- per month, which shall come into effect from the date of filing this revision. In respect of the child, no interference is called for and the payment of Rs.10,000/- awarded by the trial court is confirmed.



15. In the result, this criminal revision is **partly**
allowed. For the wife is reduced to Rs. 5,000/- towards
monthly maintenance from the date of filing of this
revision. Till that date the first respondent is entitled
for the arrears. In respect of the child, the maintenance
amount of Rs. 10,000/- ordered by the trial court is
confirmed. Consequently, connected Miscellaneous Petition
is closed.

20/12/2022

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To,

The Family Court,
Karur.

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G. ILANGO VAN, J

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