



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.12422 of 2019

and

Crl.MP(MD)No.7778 of 2019

Nanthakumar

: Petitioner / Petitioner /
Respondent

Vs.

Maya

: Respondent / Respondent /
Petitioner

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to set aside the order of directing the petitioner to pay a sum of Rs.2,500/- per month as maintenance to the respondent as made in MC No.22 of 2010, dated 13/11/2011 on the file of the Chief Judicial Magistrate, Nagercoil, Kanyakumari District and subsequently, as confirmed by the Principal Sessions Judge, Kanyakumari Division at Nagercoil, vide Revision Petition No.13 of 2012, dated 08/10/2018 forthwith.

For Petitioner : Mr.S.Palani Velayutham

For Respondent : Mr.I.Murugesan
(Legal Aid Counsel)

O R D E R

This criminal original petition is filed to set aside the order of directing the petitioner to pay a sum of Rs.2,500/- per month as maintenance to the respondent as made in MC No.22 of 2010, dated 13/11/2011 on the file of the Chief Judicial Magistrate, Nagercoil, Kanyakumari District and subsequently, as confirmed by the Principal Sessions Judge, Kanyakumari Division at Nagercoil, vide Revision Petition No.13 of 2012, dated 08/10/2018.

2.The case in brief:- It is a case of maintenance. The marriage between the petitioner and the respondent was performed, on 23/03/2009 at Nagercoil as per the Hindu customary rites. At the time of marriage, she was provided with sufficient jewels and seervarisai, apart from household articles. After the marriage, she was harassed by the petitioner and his family members demanding more dowry etc. She was also criminally intimidated and driven out of the house. After compromise, they started living together. Again, there



was a demand and she was also ill-treated and assaulted. So she lodged a complaint, on 01/06/2010 before the All Women Police Station, Colachel. Again there was a compromise. Again on 15/06/2010, she was driven out of the house. She was also physically assaulted. At that time, the victim was 6 months pregnant. Seeking maintenance amount of Rs.4,000/-, she moved the trial court on the ground that this petitioner is drawing Rs.13,000/- as monthly salary, since he is working in the Tamil Nadu Transport Corporation as driver.

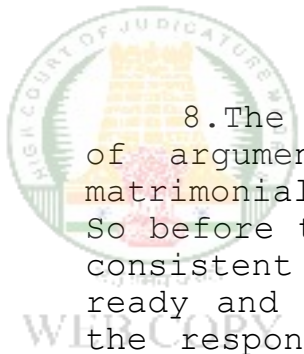
3.That petition was resisted by the petitioner on the ground that from the inspection, there was compulsion on the part of the respondent to perform the marriage. On 23/03/2009, the marriage was performed and at that time, the respondent was provided with jewellery etc. He did not take any dowry or any other things, articles from the wife. After receiving Rs.10,000/-, the wife left the house and there was no contact for about a month. The wife did not conduct herself as dutiful house wife. Only she made trouble physically and mentally to the husband. An attempt was made by the petitioner to visit the child did not yield any result. He is also ready to live with the wife. But only the wife refused to live with the petitioner.

4.Before the trial court, on the side of the petitioner, she was examined as PW1 and two documents were marked. On the side of the respondent, he himself was examined as RW1 and no document was marked.

5.The trial court ordered Rs.2,500/-, as maintenance amount per month to the wife, by order, dated 20/11/2011. Challenging the same, the husband preferred Revision Petition No.13 of 2012 before the District Judge, Kanyakumari. That also came to be dismissed, by order, dated 08/10/2018. Against which, this petition has been filed.

6.Heard both sides.

7.Since notice sent to the respondent could not be served, in spite of repeated adjournments, this court thought it to appoint an Advocate from the Legal Aid Panel to assist the respondent. In pursuance of the above, counsel was also appointed and he has submitted that he has also sent a notice to the respondent seeking instructions. But that notice was returned stating that no such address is available. So at the time of argument, the petitioner would submit that he is ready to pay a sum of Rs.2,500/- and to live with her, even though the trial court as well as the revisional court have passed an order to pay a sum of Rs.2,500/- per month. Since the whereabouts of the respondent is not known, the possibility of taking out the mediation process also failed. So on the basis of the available records, the matter has to be disposed



8.The learned counsel appearing for the petitioner, at the time of argument, would submit that only the respondent left the matrimonial home and she was not willing to resume the cohabitation. So before the trial court as well as the revisional court, it was a consistent plea raised by the petitioner to the effect that he is ready and willing to live with the respondent and child. But only the respondent on her own accord, left the matrimonial home and living separately without any lawful reason.

9.It is also seen that it is a love marriage between them. Because of difference of opinion, a panchayat was also arranged not only in the presence of the friends, but also at the instance of the Colachel All Women Police when the complaint was given by the respondent. After the above said compromise, it appears that both started living together.

10.It is the specific allegation of the respondent that her husband is having illegal intimacy with one Chandra and started harassing her. Even though the said fact was denied by the petitioner, it appears that for the above said allegation, a complaint was also lodged before the AWPS, Colachel. When such an allegation has been made by the respondent against this petitioner, it is the duty of the petitioner to convince the respondent that he is not having any illegal intimacy. Even though the fact that the whereabouts of the respondent is not known, on that ground only, this petition cannot be allowed. If the respondent appeared and filed a petition to execute the order, the petitioner very well make such a plea that he is ready to live with her. Here absolutely, no material is available to differ from the view that has been taken by the trial court and the revisional court.

11.Considering the present economic situation, the payment of Rs.2,500/- per month as maintenance to the wife cannot be construed to be excessive one. So, I find absolutely no merit in this petition.

12.In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Sd/-

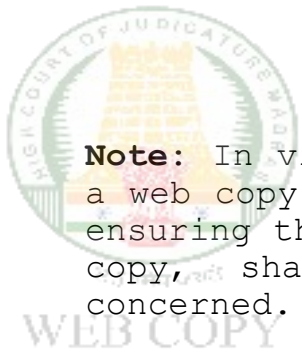
Assistant Registrar ()

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

1.The Principal Sessions Judge,
Kanyakumari District @ Nagercoil.

2.The Judicial Magistrate,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.I. MURUGESAN, Advocate (SR-17666[F] dated 11/04/2022)

CrI.O.P. (MD)No.12422 of 2019
07/04/2022

MK/06.06.2022/4P/4C