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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 11/11/2022

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.RC(MD)No.887 of 2022

and

Cr1.MP(MD)No.11074 of 2022

Murugesan : Petitioner/Respondent

Vs.

Ravathi @ Periyamayagi : Respondent/Petitioner

Prayer:- This Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code to call for the records pertaining to the order passed by the Family Court, Trichy, in MC No.125 of 2019, dated 16/08/2022 and set aside the same.

For Petitioner : Mr.K.M.Karunakaran

For Respondent : Mr.D.Balamurugapandi

**ORDER**

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This Criminal Revision has been filed seeking to set aside the order passed by the Family Court, Trichy, in MC No.125 of 2019, dated 16/08/2022.

2.The facts in brief:-

It is a matrimonial issue between the husband and wife. The marriage between the parties took place, on 17/11/2004 as per their Hindu customary rites. On 14/09/2005, a female child was born. It is the contention on the part of the wife that after the birth of the female child, she was subjected to harassment demanding money, dowry, etc., over which, a complaint was given, on 24/04/2009 before the AWPS, Pattukottai. During the course of investigation, the husband agreed to arrange a separate residence in Trichy. They started living in Trichy. But again torture continued. Because of the above said continuous torture, in 2017, by leaving the wife, the husband along with his child went to the matrimonial home. She was also assaulted, on 05/06/2018. A false case has been given as if the wife assaulted the husband. When it came to know that the husband is having intimacy with some other girl, that was objected and the wife was



3.The above said petition was resisted by the husband stating that two female children were born during the wedlock. A counter allegation has been made to the effect that the wife is having illegal contact with some unknown person and he is not taking care of the children. When the conduct of the wife was objected and enquired, he was also assaulted, over which, a case in Crime No.105 of 2018 was registered against his wife. But the above said assault case is pending in CC No.274 of 2018 before the Fast Track Court, Pattukottai. Thereafter, the wife did not return to the matrimonial home and there was no contact also.

4. At the conclusion of the enquiry, the trial court found that the husband is running a hair-dresser shop and earning sufficient money. Finding that approximately, the husband will earn Rs.52,000/- per month, for maintaining the children and other things,



maintenance amount was fixed at Rs.10,000/-. In DVC No.40 of 2020, the wife was granted Rs.5,000/- towards maintenance amount. But there is no clear record, whether the above said maintenance amount that was awarded by the Mahila Court, Trichy in DVOP No.40 of 2020 is additional amount or not.

5.Now whatever it may be, the learned counsel appearing for the petitioner would submit that even though, he is running a hairdresser shop, the monthly income that has been calculated by the trial court is not proper. Apart from that, only he was assaulted by his wife and she only deserted him.

6.More-over, perusal of the records shows that he was directed to deposit 50% of the arrears amount to the credit of the Maintenance case before the trial court and that was not also complied. Thereafter, the matter has been heard. So attitude of the revision petitioner must also be taken into account.



7. Whether the assault that is alleged in CC No.105 of 2018 is true or not, is a matter for consideration by the concerned Magistrate Court.

8. Since there are allegations and counter allegations with regard to the conduct of the parties and without any basic material fact to doubt the conduct of the wife, it is the duty of the revision petitioner to maintain the wife. But what happened to the above said award amount of Rs.5,000/- by the Mahila Court in DVC No.40 of 2020, as mentioned earlier, is not clear on record. Whether that amount has been paid or not, there is also no clear records. The question of desertion may not be correct and there is no proof also. The children are also in the custody of the revision petitioner.

9. So taking into account the job nature of the revision petitioner, the award of Rs.10,000/- granted by the trial court is considered to be on the higher side and it is reduced to Rs.7,500/- per month.

10. In the result, this criminal revision **is partly**



6

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allowed and the award of Rs.10,000/- towards maintenance

amount granted by the trial court is reduced to

Rs.7,500/- per month.

Consequently, connected

Miscellaneous Petition is closed.

11/11/2022

Index:Yes/No

Internet:Yes/No

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To,

The Family Judge,
Trichy.

G . ILANGO VAN , J



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Cr1.RC(MD)No.887 of 2022

11/11/2022



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