



WEB COPY

CrI.R.C(MD)No.848 of 2021:-

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.R.C(MD)Nos.848 & 872 of 2021

and

CrI.M.P(MD)Nos.9912 & 10298 of 2021

CrI.R.C(MD)No.848 of 2021:-

Altaf Batcha

... Petitioner/Respondent/Respondent

Vs.

Moshina

... Respondent/Appellant/Petitioner

PRAYER: Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records relating to the order dated 15.09.2021 made in CrI.A.No.12 of 2020 on the file of the IV-Additional Sessions Court, Madurai, confirming the order dated 07.08.2019 made in M.C.No.20 of 2015 on the file of the Additional Mahila Court, Madurai, allowing the petition filed under Sections 18, 19 & 20(d) of the Domestic Violence Act by the respondent/wife directing the petitioner/husband to pay a sum of Rs.8,000/- per month in total and set aside the same.

For Petitioner : Mr.R.Gandhi

For Respondent : Mr.S.M.A.Jinnah

CrI.RC(MD)No.872 of 2021:-

Altaf Batcha

... Petitioner/Appellant/Respondent

Vs.

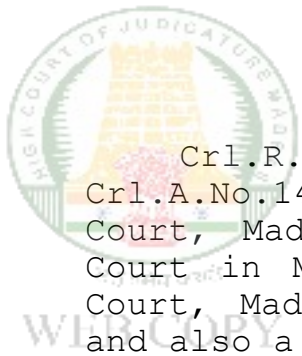
Moshina

... Respondent/Respondent/Petitioner

PRAYER: Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records relating to the order dated 15.09.2021 made in CrI.A.No.144 of 2019 on the file of the IV-Additional Sessions Court, Madurai, confirming the order dated 07.08.2019 made in M.C.No.20 of 2015 on the file of the Additional Mahila Court, Madurai, allowing the petition filed under Sections 18, 19 & 20(d) of the Domestic Violence Act by the respondent/wife directing the petitioner/husband to pay a sum of Rs.8,000/- per month in total and set aside the same.

For Petitioner : Mr.R.Gandhi

For Respondent : Mr.S.M.A.Jinnah



COMMON ORDER

Crl.R.C(MD)No.872 of 2021 has been directed as against Crl.A.No.144 of 2019 on the file of the IV-Additional Sessions Court, Madurai, thereby confirmed the order passed by the trial Court in M.C.No.20 of 2015 on the file of the Additional Mahila Court, Madurai, thereby ordered monthly maintenance of Rs.6,000/- and also a sum of Rs.2,000/- for residence payable by the petitioner in favour of the respondent herein.

2.Crl.R.C(MD)No.848 of 2021 has been directed as against Crl.A.No.12 of 2020 on the file of the IV-Additional Sessions Court, Madurai, thereby partly allowed the order passed by the trial Court in M.C.No.20 of 2015 on the file of the Additional Mahila Court, Madurai, thereby ordered monthly maintenance of Rs.6,000/- and also a sum of Rs.2,000/- for residence from the date of the claim petition payable by the petitioner in favour of the respondent herein.

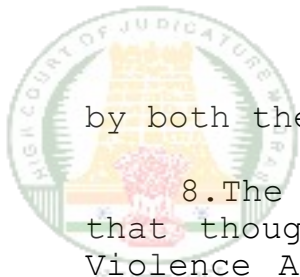
3.Since the issues involved in the petitions are one and the same, both the Criminal Original Petitions were taken up together and disposed of by this common order.

4.The respondent/wife filed a petition under the Domestic Violence Act in M.C.No.20 of 2015 alleging that on 16.09.2013, she got married with the petitioner and thereafter, the petitioner harassed her and as such, she was driven out from the matrimonial home to her parents house.

5.On the side of the respondent/wife, P.W.1 to P.W.3 were examined and marked Exs.P.1 to P.15 and on the side of the petitioner, he himself was examined as D.W.1 and marked Exs.D.1 to D.35.

6.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

7.On a perusal of the oral and documentary evidence, the trial Court partly allowed the petition in M.C.No.20 of 2015 and directed the petitioner to pay a sum of Rs.6,000/- as monthly maintenance and a sum of Rs.2,000/- for residence from the date of order. Aggrieved by the same, the petitioner preferred an appeal in Crl.A.No.144 of 2019 on the file of the IV-Additional Sessions Court, Madurai. Simultaneously, the respondent also filed Crl.A.No.12 of 2020 before the same Court seeking modification of the order passed by the trial Court. The Appellate Court dismissed the appeal filed by the petitioner/husband in Crl.A.No.144 of 2019 and modified the order passed by the Court below on the appeal filed by the respondent/wife in Crl.A.No.12 of 2020 in respect of the payment of the maintenance amount from the date of order and directed that the petitioner is liable to pay a sum of Rs.6,000/- as monthly maintenance and also a sum of Rs.2,000/- for residence from the date of petition. Aggrieved



by both the appeals, the petitioner preferred these revisions.

8.The learned counsel appearing for the petitioner would submit that though the trial Court rejected the allegations of Domestic Violence Act, without application of mind, ordered for maintenance payable by the petitioner. The petitioner is not liable to pay any maintenance since their relationship ended as early as on 30.04.2014 itself. The respondent suppressed the earlier marriages and when the previous marriages were subsisting and not dissolved legally, the respondent is not entitled for any maintenance.

9.On a perusal of the records revealed that though the petitioner alleged that the respondent got married with another person, the petitioner did not produce any piece of evidence to show that she got married with another person. In fact, even assuming that the respondent's earlier marriage is in existence, the petitioner can very well file a petition to nullify the marriage between the petitioner and the respondent. Therefore, the trial Court awarded a sum of Rs.6,000/- as monthly maintenance payable by the petitioner and also a sum of Rs.2,000/- for residence and the same was confirmed by the Appellate Court.

10.That apart, the trial Court failed to award maintenance from the date of petition and as such, the first Appellate Court rightly modified the Judgment that the respondent is entitled for maintenance from the date of petition. Therefore, this Court finds no infirmity or illegality in the orders passed by both the Courts below. Accordingly, these Criminal Revision Cases are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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 IV-Additional Sessions Judge, Madurai.
- 2.The Additional Mahila Judge, Madurai.

**Crl.R.C(MD)Nos.848 & 872 of 2021
03.03.2022**

RS(21.03.2022) 3P-3C

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