



Crl.R.C. No.845 of 2022 & Crl.M.P. No.8579 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.R.C.No. 845 of 2022 &

Crl.M.P. Nio. 8579 of 2022

P. Arunachalaprabu

...Petitioner

Vs.

1. P. Indhumathy

2. A. Jishnuprabhu

...Respondents

Prayer : Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C. against the order dated 07.06.2018 in M.C. No.20 of 2016, on the file of the Judicial Magistrate, Thiruvottiyur.

For Petitioner : Mr. M. Marudhachalam

For Respondents : Mr.M.Praveen Kumar

ORDER

Challenge in this Criminal Revision is made to the orders dated 07.06.2018 in M.C. No.20 of 2016, on the file of the Judicial Magistrate, Thiruvottiyur.



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2. The revision petitioner is the respondent in M.C. No.20 of 2016. The respondent herein filed the abovesaid petition under Section 125 Cr.P.C. praying maintenance of Rs.45,000/- per month to her and her son Jishnuprabhu aged 2 years and two months (at the time of filing the petition).

3. The facts leading to the filing of the present Criminal Revision are as follows:

3.1. The marriage between revision petitioner and the 1st respondent was solemnised on 18.03.2013 at Murugan Devasthanam, Puliyangudi Village, Sivagiri Taluk, Thirunelveli District according to Hindu Rites and Customs. At the time of marriage, the parents of the 1st respondent spent a sum of Rs.8,00,000/- towards marriage expenses and also presented 40 sovereigns of gold jewels apart from Silver, brass pooja articles and other household articles worth Rs.50,000/-. Out of the wedlock the 2nd respondent was born to the revision petitioner and the 1st respondent.



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3.2. The revision petitioner is working as a network Engineer in a private concern, namely. Plintron, drawing a salary of Rs.1,25,000/- per month. According to the 1st respondent the revision petitioner also owns a double bedroom Flat at Plot No.28, Maxworth Nagar, phase-II, 2nd Cross Street, Kolapakkam, Chennai 600 122, and also owns a four wheeler and a two wheeler apart from movable and immovable assets both in Chennai and in his native Village.

3.3. Since the 1st respondent was unable to tolerate the torture meted out to her by the revision petitioner she had to leave her matrimonial home along with her son (2nd respondent). She therefore filed a Maintenance Case in M.C. No.20/2016 before the Judicial Magistrate, Thiruvottiur, seeking maintenance of Rs.45,000/- per month for her and her child.

3.4. The revision petitioner filed a counter stating that the 1st respondent left the matrimonial home without sufficient cause and that he is not liable to pay maintenance to her.



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3.5. The case was posted for trial by the learned Judicial Magistrate, Thiruvottiyur, and the 1st respondent filed proof affidavit on 26.05.2017 along with 7 documents and she was also cross examined by the present revision petitioner. Subsequently, the revision petitioner filed a proof affidavit. However, no documents were marked on the side of the revision petitioner. When the matter was posted for cross examination of the revision petitioner, he did not appear before the Court and therefore his evidence was closed and orders were pronounced on 07.06.2018, in and by which the revision petitioner was directed to pay a monthly maintenance of Rs.15,000/- to the 1st respondent and Rs.15,000/- to the 2nd respondent.

3.6. Aggrieved over the orders passed by the learned Judicial Magistrate, Thiruvottiyur, the present Criminal Revision is filed.

4. Mr. M. Marudhachalam, learned counsel for the revision petitioner contended that the 1st respondent initially agreed for a divorce by mutual consent and gave an undertaking on 02.03.2015.



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Subsequently, she refused to sign the petition filed under Section 13(b) of the Hindu Marriage Act, 1955. Thereafter, she filed a divorce petition in H.M.O.P. No.119/2015 before the Subordinate Court, Ponneri, against the revision petitioner on the grounds of cruelty. According to him, during the pendency of the HMOP, talks were going on between the parties and hence the revision petitioner did not appear before the trial court for subjecting himself for cross examination by the respondents. His specific contention is that the amount awarded by the trial court is on the higher side and that the revision petitioner also got married second time after getting a decree of divorce in HMOP No.119/2015 and therefore he has to maintain his present family members. It is also his contention that the 1st respondent is an Advocate by profession and therefore she can maintain herself.

5. Per contra, Mr.M.Praveen Kumar learned counsel for the respondents would contend that the 1st respondent is a junior Advocate and with her meagre income she is unable to maintain herself and her son, who is now studying in Class IV. It is also his contention that the



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revision petitioner, as a husband of the 1st respondent, is bound to maintain his wife and his son and that he did not deny his salary either in his counter or while cross examining P.W.1. He, therefore, prayed for dismissal of the present petition.

6. The learned Trial Court Judge after analysing the evidence on record and also after perusing the salary slip of the revision petitioner, which was marked as Ex.P6, had come to a conclusion that the present revision petitioner should pay maintenance of Rs. 30,000/- per month to the respondents. It is seen from the records that the revision petitioner did not dispute his monthly salary either in his counter or while cross examining P.W.1. In fact, the Trial Court Judge in her orders, had observed thus:

"10. In this case the 1st petitioner has not remarried, therefore she is entitled for maintenance under Section 125 Cr.P.C from the respondent. On the whole this court feels based on the above discussion that the petitioners was failed and neglected to be maintained by the respondent. The respondent is duty bound to maintain the petitioners



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and therefore this court feels that petitioner is entitled for maintenance at the hands of the respondent. The respondent filed proof affidavit and no documents were marked on his side. In spite of several hearing the respondent never turned up for cross examination. Therefore the cross examination of the respondent was suo moto closed. Petitioner side arguments heard. The respondent never denied the salary slip filed by the petitioner which is marked as Ex.P6. Therefore it is clear that the respondent has got sufficient means to maintain the petitioners this court presumes that the petitioners were not provided with proper maintenance."

The above observations made by the Trial Court Judge cannot be found fault with. Moreover, the divorce petition was filed in the year 2015 and the revision petitioner also got married second time in the year 2018. Therefore the contention of the counsel for the revision petitioner that some settlement talks were going on between the parties during the pendency of the maintenance case is totally unacceptable.



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7. In the circumstances, the Criminal Revision Case is dismissed. Consequently connected Criminal Miscellaneous Petition is closed. The orders dated 07.06.2018 passed in M.C. No.20 of 2016, on the file of the Judicial Magistrate, Thiruvottiyur, is confirmed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

To

The Judicial Magistrate, Thiruvottiyur.



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R. HEMALATHA, J.
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