



Crl.R.C.No.1209 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM

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

Crl.R.C.No.1209 of 2023
and Crl.MP.No.9511 of 2023

Sankar

... Petitioner

Vs.

1. Latha

2.Avin Rahul (minor)

rep by next friend / guardian mother / 1st respondent.

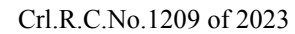
... Respondents

Prayer : Criminal Revision filed under Section 397 r/w.401 of Criminal Procedure Code to set aside the order dated 06.06.2023 in MC.No.17/2022 on the file of the Family Court, Dharmapuri.

For Petitioner : Mr.R.Rajarajan

ORDER

The present criminal revision petition is directed against the order passed by the Family Court, Dharmapuri in MC.No.17 of 2022 dated 06.06.2023.



4. In the trial Court, the first respondent examined herself as PW1 and two other witnesses and marked exhibits Ex.P1 to Ex.P5. The present revision petitioner examined himself as RW1 and one another witness. However no documentary evidence was adduced on his side. After considering the oral and documentary evidence adduced on both



CrI.R.C.No.1209 of 2023

WEB COPY

sides, the learned Family Court Judge in paragraphs No.9 and 10 of the order had observed as follows :-

“9. Admittedly, the 1st petitioner is the legally wedded wife of the respondent and 2nd petitioner is the son of the respondent. The controversy arose since the respondent has not redeemed the jewels of the 1st petitioner after disposal of the property and according to the evidence given by P.W.2, the respondent has threatened the 1st petitioner stating that if she come for reunion, he will endanger the life of the 1st petitioner and according to the evidence given by P.W.3, the monthly Gross Salary of the respondent is 64,519/-. Net Salary is Rs.53,591/- The date of birth of the 2nd petitioner is 24.01.2004 and at the time of filing of this petition, the 2nd petitioner completed his 18 years and attains majority. So, he is not entitled to get maintenance and 1st petitioner is entitled to get maintenance, since she is the legally wedded wife of the respondent, the marriage between the parties is still in subsistence and respondent has not proved that she deserted him without any reasonable cause and the respondent deserted her without any reasonable cause for the past 7 years and she maintained the 2nd petitioner with great difficulty



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Crl.R.C.No.1209 of 2023

for the past 7 years. The 1st petitioner is entitled to lead a life on par with the status of the respondent/husband. Further the 2nd petitioner has not yet completed his higher studies and 1st petitioner only maintained him. The respondent has not filed any documentary evidence to show that he has paid the school fees. According to the present day cost of living and earnings of the respondent and considering educational expenses of 2nd petitioner, this court fixed Rs.20,000/-p.m. to the 1st petitioner from the date of petition and of Rs.50,000/-p.a. for medical and other expenses of the 1st petitioner, since she only maintained the 2nd petitioner and this point is answered accordingly.

10. In the result, this petition is partly allowed with cost and the respondent is directed to pay maintenance at the rate of Rs.20,000/- p.m. to the 1st petitioner from the date of this petition i.e. from 06.06.2022 and of Rs.50,000/-p.a. for medical and other expenses of 1st petitioner. The arrears' maintenance amount from 06.06.2022 to 06.06.2023 to be paid within two months from the date of this order. The maintenance amount from 07.06.2023 has to be paid on or before 5th of next succeeding English Calendar month. No



CrI.R.C.No.1209 of 2023

WEB COPY

maintenance awarded to the 2nd petitioner, since he attains majority at the time of filing of the M.C”.

5. Thus, it is seen from the evidence adduced on the side of the respondents, the gross salary of the present revision petitioner is Rs.64,519/- and take home pay is Rs.53,591/-.

6. Mr.R.Rajarajan, the learned counsel for the petitioner contended that the petitioner is ready to take back both the respondents herein and that the maintenance amount should be scaled down to Rs.10,000/-p.m. instead of Rs.20,000/-p.m. It is seen from the records that the present petitioner did not take steps to take the respondents back to the matrimonial home. The revision petitioner did not file any petition for restitution of conjugal rights. Though the present revision petitioner had deposed before the trial Court that panchayats were convened for reunion, the same is not proved by him. So, the intention of the revision petitioner is clear that he is not ready to take back his wife and son. The trial Court, after analysing the evidence on record observed that the



Crl.R.C.No.1209 of 2023

WEB COPY

reason for separation, was that the revision petitioner had purchased a property jointly in the name of the present petitioner and the first respondent and that within a year the present revision petitioner had sold the said property. In fact, the said property was purchased after mortgaging 70 sovereigns of gold jewels belonging to the first respondent and the present revision petitioner had not taken steps to redeem the jewels pledged. On the contrary, he has made a wild allegation against the 1st respondent that she took away a sum of Rs.15,00,000/- from his house. In the circumstances, it cannot be said that the respondents had left the matrimonial home without any valid reason.

7. Therefore, the present revision petitioner is bound to pay maintenance to the respondents, but as far as quantum of maintenance awarded by the trial Court is concerned, the trial Court had awarded a sum of Rs.20,000/-p.m. towards maintenance from 06.06.2022 and a sum of Rs.50,000/-p.a. towards medical and other expenses. Considering the financial status of the present revision petitioner as well that of the



Crl.R.C.No.1209 of 2023

WEB COPY

respondents, the amount awarded by the trial Court cannot be said to be on the higher side and the trial Court infact had taken into account all the aspects and had awarded the maintenance of Rs.20,000/-p.m. and a sum of Rs.50,000/-p.a. towards medical and other expenses.

8. I do not see any reason to interfere with the order passed by the learned Family Court, Dharmapuri in MC.No.17 of 2022 dated 06.06.2023.

9. Accordingly, this Criminal revision is dismissed, at the admission stage itself. Consequently, connected miscellaneous petition is closed. No costs.

10.07.2023

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

To

1.The Family Court, Dharmapuri.



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Crl.R.C.No.1209 of 2023

R. HEMALATHA, J.
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Crl.R.C.No.1209 of 2023

10.07.2023