



Crl.R.C.No.1593 of 2023
and Crl.M.P.No.14693 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

CORAM

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

Crl.R.C.No.1593 of 2023

and

Crl.M.P.No.14693 of 2023

T.Sivakumar

... Petitioner

Vs.

1.Anitha

2.Minor.S.Krishnakumari

3.Minor.S.Sownakumari

4.Minor.S.Viswaroben

... Respondents

(Minors 2 to 4 rep. by her guardian and mother Anitha)

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal Procedure Code to set aside the orders dated 04.03.2023 in M.C.No.108/2020 on the file of the Additional Principal Family Court, Coimbatore.

For Petitioner : Mr.P.Saravana Sowmiyan

ORDER

Challenge in this criminal revision is made to the orders dated 04.03.2023 in M.C.No.108/2020 on the file of the Additional Principal Family Court, Coimbatore.

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2.The marriage between the revision petitioner and the first respondent was solemnized as per Hindu Rites and Customs Act on 27.02.2005 at Coimbatore. Out of the said wedlock, two female children, namely, Krishnakumari & Sowrnakumari and one male child, namely, Viswaroben were born to them and they are studying in 9th, 7th & 1st standard respectively. According to the first respondent, the revision petitioner used to pick up quarrel with her right from day one of their marriage and since she was unable to tolerate the torture meted out to her, she had to leave the matrimonial home. Therefore, she filed a petition in M.C.108/2020 before the Additional Principal Family Court, Coimbatore, seeking maintenance of a sum of Rs.5,000/- to her and a sum of Rs.5,000/- each to the respondents 2 to 4. She also filed a petition in HMOP 1250/2020 u/s.13(1)(ia) of Hindu Marriage Act to dissolve her marriage by granting a decree of divorce. Both HMOP 1250/2020 and M.C.108/2020 were taken up together by the learned Additional Principal Family Judge, Coimbatore.

3. In the trial court, the first respondent examined herself and



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marked Ex.P1 to Ex.P8. No oral / documentary evidence was adduced on the side of the revision petitioner.

4.The learned Trial Court Judge after analyzing the evidence on record allowed the petition in HMOP 1250/2020 and granted decree of divorce in favour of the first respondent and partly allowed the petition in M.C.108/2020 and directed the present revision petitioner to pay a sum of Rs.16,000/- per month as maintenance to the respondents herein. Aggrieved over the orders passed in M.C.108/2020, the present criminal revision is filed.

5.Mr.P.Saravana Sowmiyan, learned counsel for the revision petitioner contended that the revision petitioner is a car mechanic earning a sum of Rs.8,000/- per month and therefore, he cannot pay the maintenance amount of Rs.16,000/- per month to the respondents herein as directed by the Trial Court Judge.

6.A perusal of the counter filed by the respondent reveals that



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nowhere he has stated that he is working as a car mechanic earning a sum of Rs.8,000/- per moth. On the contrary, he has stated that the first respondent is not entitled to get any maintenance from him since she had deserted him without sufficient cause. The learned Trial Court Judge vide his orders dated 04.03.2023 had observed thus :

“The petitioner states that she has no source of income either to maintain herself or her children. It is not the case of the respondent also that the petitioner is having income from independent sources. The respondent has not proved that he has been providing any monetary assistance to the petitioners after their separation. Therefore it is held that the petitioner and her children have no sufficient income to meet their basic expenses. It is true the petitioner has not produced any document to show the income of the respondent. But the respondent has stated in his coutner that he has admitted his children in a reputed school and the educational expenses were paid by him only and he is ready to provide them sufficient facilities. It is not the case of the respondent that he is suffering with any ailment. Moreover the respondent being the husband of the 1st petitioner and father of the petitioners 2 to 4 of M.C.No.108 of 2020, he is



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In the above circumstances this court is of the view that the petitioner is entitled to claim maintenance from the respondent.”

7.Even in the revision petition, the revision petitioner did not produce any evidence to show that he is working as a car mechanic earning a sum of Rs.8,000/- per month. In the circumstances, I do not see any reason to interfere with the well considered orders passed by the Trial Court Judge.

8.In the result, this Criminal Revision Case is dismissed at the admission stage itself. Consequently, connected Criminal Miscellaneous Petition is closed. The orders dated 04.03.2023 in M.C.No.108/2020 on the file of the Additional Principal Family Court, Coimbatore, is confirmed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.
mtl

To

1.The Additional Principal Family Court, Coimbatore.

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