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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 04/01/2023

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

Cr1.RC(MD)No.150 of 2022

Marimuthu : Petitioner/Respondent

Vs.

1.Uma Rani
2.Minor Magiban
3.Minor Gokula Gudan
(Minor respondents 2 and 3
represented by their mother): Respondents/Petitioners

Prayer:- This Criminal Revision has been filed under sections 397 and 401 of the Criminal Procedure Code, to call for the records and to set aside the impugned order, dated 27/10/2021 made in MC No.18 of 2020 on the file of the Family Court, Sivagangai.

For Petitioner : Mr.S.Srinivasa Raghavan

For Respondents : Mr.S.Malaikani

O R D E R

This criminal revision has been filed seeking to set aside the order, dated 27/10/2021 passed in MC No.18 of 2020 by the Family Court, Sivagangai.

**2. The facts in brief:-**

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The marriage between the petitioner and the first respondent took place, on 08/09/2003 as per their customary rites. Within a week from the date of marriage, the husband went to Chennai for work. In the meantime, the mother-in-law misappropriated four sovereigns of gold jewels from the wife. The husband did not take any care, when that was brought to his notice. A proposal was made to marry the sister of the wife to the husband secondly, which was also refused. Because of the marriage, two child were born to them, on 11/10/2005 and 22/10/2007. Even after the birth of the child, she was tortured and also physically assaulted. Since the husband did not take any care, the wife took the children and went out of the matrimonial home. Now she is living with her parents. At the instigation of his mother, the husband also received Rs.50,000/- for the purpose of constructing a house. Even after that, the torture continued. Thereafter, the husband sent a legal notice seeking restitution of conjugal rights. There was a compromise between them and thereafter, they were living together. Within a short time, the husband again went to Chennai for work. Now the



3. That petition was resisted by the husband that the wife was having illegal intimacy with her husband and because of the above said relationship only, problem started. Even in the matrimonial proceedings, he has not stated anything about the conduct of the wife. Even from the date of marriage, he avoided him. Even for petty issue, she used to quarrel. Now she is living in the house, which belongs to his sister and refused to vacate the same. Hence, a police complaint was given and in that



complaint enquiry, she gave an undertaking to vacate the house. She also filed DVOP No.2 of 2020 before the District Munsif Court, Elaiyankudi. He is a daily coolie worker.

4.At the conclusion of the trial, the trial court found that there is sufficient reason for the wife to live separately, in the light of the divorce petition filed by the husband and accordingly, granted Rs.5,100/- to the wife and two children were awarded Rs.4,000/- each.

5.Now challenging the above said order, this revision has been filed by the petitioner/husband.

6.When the matter was pending, it was referred to the Mediation and Conciliation Centre, attached to this Bench for settlement. But for one or other reasons, it could not be settled.

7.The Mediation report reads that because of the non-appearance of the petitioner, it could not be undertaken, in spite of adjournments for three sittings.



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8. In the grounds of revision, it has been stated that only the wife voluntarily deserted the husband and living separately and apart from that, as mentioned above, the conduct of the first respondent is also mentioned. But before the trial court, he has not chosen to file the copy of the petition, which was filed by him seeking divorce.

9. It has been admitted by the petitioner that in the above said HMOP proceedings, he did not make any mention with regard to the conduct of the wife. When that is being so, it is too late for the petitioner to make out the above said ground during the revisional stage. So with regard to the above said allegation also, it was found that absolutely there is no evidence. With regard to the above said allegation, there is a clear finding by the trial court to the effect that nothing has been proved by the petitioner with regard to the allegation of desertion and conduct. Naturally, in the light of the above said filing of the HMOP No.8 of 2019 by the husband, there is sufficient reason for the wife to live separately. I find absolutely no reason with regard to



the above said allegation.

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10. With regard to the quantum also, I find no reason to differ the findings of the trial court, because it is an evidence to show that the Will was effected by the petitioner in respect of the property owned by him, But there is no finding by the trial court. So it appears that it is not a bona fide one. Even though, it has been stated that he is only a daily coolie, he is bound to maintain the wife and the children. It has been properly calculated by the trial court, over which also no dispute can be raised by the petitioner.

11. For all the reasons stated above, this court finds no merit in this revision. Accordingly, this criminal revision fails and the same is **dismissed**.

04/01/2023

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Internet: Yes/No
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To,

The Family Court,
Sivagangai.



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G . ILANGO VAN , J

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