



Crl.R.C.(MD).No.164 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 24.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.164 of 2022
and Crl.M.P.(MD).No.2702 of 2022

Veeraputhiran

... Petitioner

Vs.

U.Murugeswari

... Respondent

PRAYER: This Criminal Revision Case is filed under Sections 397 and 401 of the Criminal Procedure Code, to call for the records relating to the order passed by the learned Family Court, Tirunelveli, in M.C.No.74 of 2019, dated 14.07.2021 and set aside the same.

For Petitioner : Mr.S.Thalaimutharasu

For Respondent : Mr.S.Velrajan

ORDER

This Criminal Revision Case has been filed against the order passed in M.C.No.74 of 2019, dated 14.07.2021 on the file of the Family Court, Tirunelveli.



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2.The facts in brief:

It is the case of matrimonial dispute. The wife filed a petition under Section 125 of Cr.P.C., seeking maintenance from the husband on the following grounds. A marriage between the parties was solemnised on 11.09.2014 at Sri Vedanarayanan Sri Alagiya Mannar Sri Rajagopala Swami Thirukoil, Palayamkottai, as per their customary rites. At the time of marriage, she was provided with sufficient house hold articles, jewels, etc., After the marriage they started their life in the respondent's house. Right from the marriage, the husband used to pick up quarrel with the wife finding fault for even a petty matter. Because of the continuous cruelty, she left the matrimonial home on 13.05.2017 and later filed H.M.O.P.No.342 of 2018 for divorce. Even though she is a M.Com., Degree Graduate with Computer Science Diploma Degree, she is not in position to secure Job and she has no movable or immovable properties. The husband is working as Assistant Engineer in Tamil Nadu Electricity Board and drawing Rs.75,000/- as monthly salary. Apart from that he has also rented out building for monthly rent of Rs.5,000/-. His mother is also getting family pension. Seeking maintenance amount of Rs.35,000/-, she filed a petition. That was resisted by the husband on the ground that during the Mediation process in



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H.M.O.P.No.342 of 2018, he agreed to live with the wife. But the wife refused. So she is not entitled for maintenance. The wife is owning houses at Sathish Nagar at Gangaikondan and by obtaining loan only he constructed a house. He has got only meagre salary.

3.On the basis of the evidence on record, the trial Court directed the husband to pay Rs.15,000/- per month from the date of petition. Challenging the above said maintenance, this revision has been preferred on the ground that the wife is employed and also she is getting good salary.

4.Heard both sides.

5.The fact that they get separated long back and wife also filed a petition seeking divorce are not disputed. Perusal of records shows that divorce petition that was filed by the respondent was allowed on 10.07.2019 in H.M.O.P.No.342 of 2018. So after the above said divorce only, it appears that the present maintenance petition was filed by the wife. It is further seen that during the pendency of the HMOP proceedings I.A.No.1 of 2019 was filed by the wife seeking interim maintenance and that was allowed on 15.06.2019 and interim maintenance amount was ordered at the rate of



Rs.15,000/- per month. Later that main petition itself was disposed of and husband has not paid even a single pie in pursuance of the above said interim maintenance order. Absolutely, no explanation has been offered by the husband for not complying the above said order. Even though the ground of desertion has not been taken by the revision petitioner, in the light of the grant of divorce in H.M.O.P.No.342 of 2018, now this issue has become baseless, for the simple reason that even the divorcee wife is entitled for the maintenance. As I mentioned earlier, the maintenance petition is filed only after the disposal of the HMOP proceedings. The very same ground cannot be taken once again here. So only the point remains to be answered is, the financial capacity of both the parties. Even though, it has been stated by the petitioner that the wife was employed, absolutely no evidence has been produced. During the course of cross examination, it was suggested to her that her brother is also financially supporting her and they are running a primary school in Gangaikondan, in which, the wife is also a party. But the evidence that was given during the course of cross examination does not even remotely suggested that the wife is well placed in the society and getting sufficient income before her appointment as spoken by RW3. All the suggestions were made only with reference to the property owned by her parents.



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6.It is also found that the respondent was getting Rs.82,000/- per month as salary. But however, the payment of maintenance from the date of petition till February 2021 has been ordered on the following ground. During the course of enquiry, RW3 was examined to show that the respondent was appointed as Assistant in Tirunelveli Central Co-operative Bank on 25.02.2021. Probation period was two years. Finding that the respondent has got a job and also earning money from 25.02.2021 the above said order has been passed. Absolutely, I find no reason to interfere into the above said order. The payment of maintenance amount of Rs.15,000/- has been made by taking into account the interim maintenance that was ordered by the matrimonial Court that was also not even paid by the revision petitioner. As I mentioned earlier no reason has also been given. In view of the above said factual position, I find no reason to interfere with the order, which is perfectly and legally fair one.

7.This petition deserves to be dismissed. Accordingly, dismissed. Consequently, connected miscellaneous petition is closed.

24.01.2023



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NCC : Yes/No
Index : Yes / No
Internet : Yes / No

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To

1.The learned Judge, Family Court, Tirunelveli.



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