



CrI.R.C.(MD).No.302 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

CrI.R.C.(MD).No.302 of 2022

Subramanian

... Petitioner

Vs.

1.Tamilarasi

2.S.Sri Gayathiri

3.Minor S.Gowreesh

... Respondents

((3rd respondent represented through his mother and natural guardian the 1st respondent)

PRAYER: This Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the entire records pertaining to the impugned order, dated 07.09.2021 made in M.C.No.65 of 2019 on the file of the Family Court, Ramanathapuram and to set aside the same.

For Petitioner : Mr.M.S.Jeyakarthik

For Respondents : Mr.D.Senthil

ORDER

This Criminal Revision Case has been filed against the impugned order, dated 07.09.2021 made in M.C.No.65 of 2019 on the file of the



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Family Court, Ramanathapuram.

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2.The background facts in brief:

The marriage between the petitioner and the first respondent took place on 30.08.2001 in Arukadi Village as per their family customary rites. At the time of marriage she was provided with sufficient Seervarisai and jewels etc., Because of the marriage two children born to them. In the year 2004, the wife was given appointment as a nurse in Government Primary Health Centre. Abandoning the family, the husband went abroad. Later he returned to India and started living in Karur. Third child was born on 16.08.2008. Again he went to abroad abandoning the family. The wife was transferred to Bamban. The husband developed some illegal intimacy with some girl. When that was objected, she was teased and harassed. Now the children are in care and custody of the wife and she is spending for their educational expenses by obtaining loan from other sources. Husband also constructed a house without intimating the wife and children. On 03.04.2019, wife was assaulted, over which, a complaint was given and C.S.R.No.27 of 2019, was also registered. Later, he filed H.M.O.P.No.42 of 2019 seeking divorce. Claiming maintenance amount for the children the above said petition was filed.



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3.That was resisted by the husband stating that making allegation against the wife stating that he started behaving indifferently and only she demanded divorce. He was giving money regularly for the maintenance of the children, house, etc., and he also met out the educational expenses of the children. Because of the cruelty that was made by the wife, he filed H.M.O.P.No.42 of 2019, for divorce and that was also granted on 11.01.2020. He has also purchased the life insurance for the children. At the conclusion of the enquiry process, the petition was partly allowed directing the revision petitioner to pay a sum of Rs.10,000/- each and total Rs.20,000/- was ordered as maintenance to the children. Now challenging the same, this revision has been preferred by the husband stating that now the second respondent namely Gayathri has become major and third respondent namely Gowreesh is going to attain majority. Since the first respondent namely the mother is also working and earning Rs.50,000/- per month, she is also liable to bear the expenses.

4.Heard both sides.

5.I am unable to satisfy myself with regard to the grievance that has been expressed by the revision petitioner. Being the father, he cannot shy



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away from the responsibility to maintain the children at any cost. His contention that the wife is behaving indifferently and divorce was also granted to him, cannot be matter for consideration, So far as the request for maintenance amount to the children are concerned, totally these are irrelevant factors.

6.Only a small point arises for consideration is whether the second respondent, who is now attained majority, is entitled to receive the maintenance amount continuously. Till she attained majority, she is entitled to receive the maintenance. No ground is made by the petitioner to the effect that she got married. A contention has been raised to the effect that now the petitioner, after the divorce got married and he has to bear the expenses of the second family also.

7.The learned counsel for the petitioner would rely upon the judgment of the Honourable Supreme Court in the case of ***Abhilasha Vs. Parkash and others*** made in ***C.A.No.615 of 2020***, dated 15.09.2020, which was followed by this Court in its judgment in the case of ***S.James Francis Vs. Silvester Ramani and another*** made in ***Crl.R.C.(MD).No.481 of 2020***, dated 01.04.2022 and contended that till the second respondent attained



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majority, she can claim maintenance from the father under Section 125 Cr.P.C. After attaining majority she has to file a petition under Section 20 of Adoption and Maintenance Act, 1956, claiming maintenance till she gets married. Now the position is very clear. The second respondent has attained majority and the arrear amount till she attains majority must be paid by the revision petitioner. On which date she attained majority is not clear. There is no clear evidence on record. The petitioner is liberty to move the trial Court, which can grant the order for alteration. Regarding the third respondent, there is no quarrel, since now he is a minor and the revision petitioner cannot make any objection and contention over his responsibility to pay the maintenance to him.

8. So with the above said direction, I am of the considered view that the matter can be disposed of.

9. Even though a contention has been raised to the effect that the wife since employed, must also bear the expenses and she must also contribute the maintenance amount only Rs.10,000/- has been awarded as monthly maintenance. The petitioner, who is working in abroad, is capable of bearing Rs.10,000/-, which is a very minimum amount. Since by incurring



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huge expenditure, a house was constructed by this petitioner, whose financial capacity also cannot be doubted and challenged. So the above said order can be partly modified to the extend stated above. Accordingly, this criminal revision case is disposed of.

27.02.2023

Index : Yes / No
Internet : Yes / No
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To

1.The Judge, Family Court, Ramanathapuram.



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G.ILANGO VAN,J.

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