



Crl.R.C.(MD).No.327 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 02.03.2023

DELIVERED ON : 09.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.327 of 2022
and Crl.M.P.(MD).No.4127 of 2022

Rajkumar

... Petitioner

Vs.

1.Veeralakshmi

2.Minor Hasini

... Respondents

(2nd respondent represented by her guardian/mother the first respondent)

PRAYER: This Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records of the learned Judicial Magistrate Court, Tenkasi, in M.C.No.16 of 2017 and set-aside the order, dated 07.10.2021.

For Petitioner : Mr.T.Indrachithu

ORDER

This Criminal Revision Case has been filed against the order passed in M.C.No.16 of 2017 on the file of the Judicial Magistrate Court, Tenkasi.



2.The facts in brief:

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The marriage between the husband and wife took place on 25.05.2014 as per their religious customary rites. At the time of marriage they were provided with sufficient seervarisai, house hold articles, car etc., After that they were living together and a female child was born on 01.03.2015. The Jewels which belongs to the wife were pledged by the husband that was redeemed by her parents. Again he demanded Rs.45,000/-. On enquiry, he revealed that he was in illegal intimacy with one Vanaja and for settling the issue, he required Rs.20,00,000/-. They also demanded Rs.3,00,000/- from the wife to live with her husband. A criminal intimidation was also made. Thereafter, the wife living with her parental home. So over the above said occurrence a case in Crime No.6 of 2017, was also registered under Section 498(A), 406, 506(ii) and Section 4 of the Dowry prohibition Act. Now seeking maintenance amount of Rs.10,000/- for herself and Rs.7,000/- for the child, she filed a petition. The husband did not appeared before the trial Court. So he was set *exparte* and *exparte* order was passed by the trial Court, on the basis of the available records that was produced by the wife.

3.At the conclusion of the trial, trial Court ordered payment of Rs.7,500/- as monthly maintenance to the wife and Rs.5,000/- to the child.



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Challenging the same, this revision has been preferred by the husband on the ground that a case in Crime No.6 of 2017 was registered on the basis of the complaint given by the wife under sections 498(A), 406, 506(ii) and Section 4 of the Dowry prohibition Act. Therefore, he was placed under suspension and till now, he did not join in the service. His monthly salary was only Rs.30,000/-, whereas, the wife is receiving Rs.60,000/- as monthly salary, since she is working in Central Industrial Security Force. Now according to him, since he was under prolonged suspension, the wife is also working, she is not entitled for maintenance.

4. But such a plea was not taken by the respondent by appearance and contesting the issue before the trial Court. There is no denial on the part of the wife during the course of the enquiry. Even though the wife is working in the CISF, it was stated that there is no sufficient income for maintenance of herself and the child. Considering the status of the parties, the above said order of granting maintenance has been passed. But how the trial Court has come to the conclusion that the wife is not in a position to maintain herself by using her own income is not understandable. Since she is a salaried person, she ought to have produced her salary certificate and would have demonstrated before the Court as to how the monthly salary is not enough



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for maintaining herself. In the absence of any such material on record granting of Rs.7,500/- as monthly maintenance to the wife is liable to be interfered and accordingly, interfered.

5. So far as the child is concerned Rs.5,000/- has been ordered as maintenance. Since the wife is also working, she also bound to contribute her share towards the maintenance of the child. Considering the total income of this revision petitioner and the first respondent herein, the order of Rs.5,000/- as monthly maintenance to the child cannot be found fault. On that ground the appeal is liable to be partly allowed.

6. Accordingly, this criminal revision petition is partly allowed. The impugned order passed by the learned Judicial Magistrate, Tenkasi, in M.C.No.16 of 2017 is hereby set aside in respect of the maintenance awarded to the first respondent and the same is confirmed in respect of the maintenance awarded to the second respondent/child. Consequently, connected miscellaneous petition is closed.

09.03.2023

Index : Yes / No
Internet : Yes / No
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To

1. The Judicial Magistrate, Tenkasi.



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