



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02/01/2023

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CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.RC(MD)No.407 of 2022

P.Karuppusamy : Petitioner/Respondent

Vs.

K.Muthukamatchi : Respondent/Petitioner

Prayer: Criminal Revision is filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for records and set aside the order made in MC No.34 of 2014 dated 29/11/2021 on the file of the Family Court, Madurai and pass such further or other orders.

For Petitioner : Mrs.Aysha Begum

For Respondent : Mr.R.Babu Jeganath

O R D E R

This criminal revision has been filed seeking to set aside the order passed in MC No.34 of 2014, dated 29/11/2021 by the Family Court, Madurai.

2.The facts in brief:-

The marriage between the parties took place, on 13/07/1983 as per their customary rites. After the marriage, they were living together separately in Avaniyapuram, Madurai. Two children were born in 1991 and



1996. But later, the husband developed illegal intimacy with one Senthilkumari. He also purchased some house properties in her name. Right from 2002, the husband started harassing the wife and living separately along with the above Senthilkumari. In the year 2003, there was a panchayat. But in the panchayat, the husband refused to live with the wife. A case in Crime No.388 of 2003 was also registered against the husband. The husband is earning sufficiently by having meals shop. He has also filed HMOP No.301 of 2003 seeking divorce on false grounds.

3.That was resisted by the husband stating that the wife is in habit of leading a luxurious life. She voluntarily left the matrimonial home and never returned. Every day, she picked up quarrel for petty reasons. Actually, she is living with one Karuppiah. Because of the illegal activity of the wife, the children also refused to live with her. HMOP No.301 of 2003 was also allowed by the trial court; The judgement passed in CC No.550 of 2006 by the Judicial Magistrate No.6, Madurai will also show that the wife is living in adulterous life and the wife is also having sufficient properties.

4.By considering the evidence on record, the trial court ordered Rs.7,000/- as monthly maintenance to the wife. Against which, this revision has been filed by him.



5. Heard both sides.

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6. The learned counsel appearing for the petitioner would again stress upon to the effect that adultery plea has been taken by the petitioner and that was also confirmed by the competent matrimonial court and even as per the evidence of PW2, two daughters have been given in marriage at the expenses of the husband. It is also submitted that the wife is staying in the house, which belongs to the husband. So according to him, when adultery plea has been taken, which has also been confirmed by the matrimonial court, the order that has been passed by the trial court is erroneous in nature.

7. Per contra, the learned counsel appearing for the respondent would submit that there is allegation and counter allegation between the husband and wife. In 2001, the husband deserted her. Apart from that, the husband is having 13 houses and till today, Rs.8,00,000/- arrears amount is due to be payable by him.

8. In reply to the above said argument, the learned counsel appearing for the petitioner/husband would submit that the counter allegation that has been made by the respondent/wife was not established.



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9. In the light of the above said argument and the circumstances, let us straightaway go to the observation that has been made by the trial court.

10. The evidentiary value of the evidence given in the procedure before the matrimonial court has been elaborately discussed by the trial court, and also the finding of the matrimonial court. According to the trial court, only an observation has been made by the matrimonial court to the effect that the wife developed illegal intimacy with one Karupaiah. The trial court went on to say that the above said allegation of adultery with one Karupaiah was not the subject matter of the matrimonial proceedings and divorce has been sought only on the ground of cruelty. Since the adultery was not the issue, the trial court did not take into account.

11. It is also seen that except the observation that has been made by the matrimonial court, no independent witness has been let in by the petitioner before the trial court to substantiate his allegation. He only produced the deposition copies of the parties as well as the witnesses in HMOP No.301 of 2003. Those things were also discarded by the trial court for valid reasons. So, I find no error or illegality in the above said finding. So in the absence of any concrete evidence to show that the wife is leading a



adulterous life, the argument that the wife is not entitled for maintenance is not at all acceptable. So I find no reason to interfere in the above said findings.

12.With regard to the quantum also, I find no reason to interfere with the findings of the trial court, since the husband is having 13 houses, which are leased out. Apart from that, he is also having agricultural lands. So considering the above said financial capacity of the husband, Rs.7,000/- has been awarded as maintenance amount to the wife, which in my considered view is not unreasonable. So, I find no reason to interfere with the order passed by the trial court.

13.In the result, the criminal revision fails and the same is **dismissed**.

02/01/2023

Index:Yes/No
Internet:Yes/No
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To,

The Family Court,
Madurai.



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G.ILANGOVAN, J

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