



Crl.R.C.(MD).No.678 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN

Crl.R.C(MD).No.678 of 2023

and

Crl.M.P(MD).No.9484 of 2023

M.Gnandhickam

... Petitioner

Vs.

Mahalaxmi

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C., to call for the records relating to the order, dated 24.01.2023 made in M.C.No.113 of 2015 on the file of Family court, Trichy and set aside the same.

For Petitioner : Mr.H.Mohammed Imran

ORDER

This petition has been filed to set aside the order passed by the Family court, Trichy, in M.C.No.113 of 2015, dated 24.01.2023.

2. According to the petitioner, the marriage between the petitioner and the respondent took place on 11.12.1997 and thereafter, due to some dispute, the respondent is living separately and filed a petition in M.C.No.113 of 2015 before the Family court, Trichy, claiming



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maintenance of Rs.15,000/- per month. The learned Trial Judge after considering the evidence and documents, granted maintenance of Rs.8,000/- per month to the respondent herein. Aggrieved over the same, the petitioner filed this revision.

3. The learned counsel for the petitioner made the following submissions:-

3.1. The learned trial Judge failed to consider that the respondent is not the wife of the petitioner.

3.2. The learned trial Judge failed to consider that the petitioner has no sufficient income to maintain himself and erroneously granted maintenance of Rs.8,000/- per month.

4. This Court considered the submission of the learned counsel for the petitioner and perused the documents and also the impugned order of the learned trial Judge.

5. Proof of Marriage:-

It is relevant to note in this case, that the marriage took place on 11.12.1997 and the petition was filed in the year 2015. To prove the



same, she produced the Ration Card (Ex.P.2) and examined independent witness P.W.2. To prove the same, the respondent examined P.W.2, independent witness. He cogently deposed before the Court about the marriage performed between the petitioner and the respondent. In this aspect, evidence of P.W.1 and P.W.2 are cogent and trustworthy. Ex.P.2, the Ration Card clearly stated that the petitioner and the respondent is living under the same roof as a husband and wife. The Hon'ble Supreme Court in the case of **Chanmuniya Vs. Virendra Kumar Singh Kushwaha** reported in (2011) 1 SCC 141 held that even in case, *where a man and woman have been living together as a husband and wife for reasonably long period of time, and strict proof of marriage should not be precondition for maintenance under Section 125 Cr.P.C., so, as to fulfill the true spirit and essence of the beneficial provision of maintenance under Section 125 Cr.P.C.* Apart from that, the petitioner admitted the marriage between him and the respondent that took place on 11.12.1997. Therefore, the learned trial Judge correctly decided that the marriage between the petitioner and the respondent is clearly proved. The said conclusion is based on the appreciation of the evidence and documents. This Court does not find any infirmity in the said conclusion. In the summary maintenance proceedings, it is not necessary to prove the



marriage beyond reasonable doubt.

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6. Proof of 'sufficient means' of the petitioner:-

The petitioner is a pensioner. He admitted that he is receiving a sum of Rs.25,000/- as pension. He is also working as a Security Guard in the Regional Engineering College, Trichy. Considering the circumstances, the learned trial Judge correctly fixed the monthly income of the petitioner as Rs.24,000/-. Hence, the learned trial Judge reasonably fixed the maintenance of Rs.8,000/- per month.

7. It is well settled principle that the petitioner as husband is duty bound to maintain the respondent. When the trial Court considered all the aspects in granting maintenance, this Court has no power to interfere in the quantum of maintenance as held by the Hon'ble Supreme Court judgment in **Rajathi v. C. Ganesan reported in AIR 1999 SC 2374:-**

“12. It was not necessary for the High Court to examine the whole evidence threadbare to exercise jurisdiction under Section 482 of the Code. Rather in a case under Section 125 of the Code the trial court is to take a prima facie view of the matter and it is not necessary for the Court to go into the matrimonial



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disputes between the parties in detail. The section provides maintenance at the rate of Rs 500 per month. There is an outcry that this amount is too small. In the present case, however, we are quite surprised that the Court granted a paltry amount of Rs 200 per month as maintenance which was confirmed in the revision by the Sessions Court and the High Court thought it fit to interfere under Section 482 of the Code in exercise of its inherent jurisdiction.”

8. In all these aspects, this Court does not find any merit in this petition. Accordingly, the order passed by the Family court, Trichy, in M.C.No.113 of 2015, dated 24.01.2023, is hereby confirmed and this Criminal Revision Case is dismissed. Consequently, the connected Miscellaneous Petition is closed.

05.07.2023

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



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K.K. RAMAKRISHNAN. J.,

trp

To

1. The Family court,
Trichy.
2. The Section Officer,
Record Section(Criminal),
Madurai Bench of Madras High Court, Maduria.

CrI.R.C(MD).No.678 of 2023

and

CrI.M.P(MD).No.9484 of 2023

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