



CrI.R.C.(MD).No.552 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.09.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.RC.(MD).No.552 of 2022

Inbarasu

... Petitioner

Vs.

Velu

... Respondent

PRAYER : Petition filed under Section 397 r/w 104 of Cr.P.C., to call for records and set aside the order passed by the learned District Munsif Cum Judicial Magistrate, Thiruchuli, Virudhunagar District in M.C.No.01 of 2021, on 06.04.2022.

For Petitioner :Mr.M.Jothi Basu

For Respondent :Mr.B.Muneeswaran

ORDER

This Criminal Revision Case has been filed against the impugned order in M.C.No.01 of 2021 on the file of the District Munsif Cum Judicial Magistrate, Thiruchuli, Virudhunagar District dated 06.04.2022.

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2. The marriage between the petitioner and the respondent had taken place on 25.06.1990. Due to their wed lock, one female child was born to them. Thereafter, in the year 2005, due to some misunderstanding between the petitioner and the respondent, the respondent drove the petitioner and his daughter out from the matrimonial home. After that the respondent filed a petition for divorce in H.M.O.P.No.37 of 2005 before the Sub Court, Aruppukottai and the same was allowed on 10.10.2006. Thereafter, the petitioner filed a petition before the Judicial Magistrate Court, Aruppukottai for maintenance in M.C.No.13 of 2012 and the same was transferred to the District Munsif Cum- Judicial Magistrate, Thiruchuli and numbered as M.C.No.1 of 2021.

3. After the maintenance proceedings, the Court below dismissed the petition filed by the petitioner in M.C.No.1 of 2021, seeking maintenance under Section 125 Cr.P.C. Aggrieved over the same, the petitioner herein has filed this Criminal Revision Case before this Court.



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4.The learned counsel for the petitioner made the following submissions:

(i) The Trial Court failed to consider that the petitioner is a divorced wife of the respondent. She is not able to maintain herself. Therefore, she has filed a petition for maintenance. Further, she is entitled to claim maintenance from the respondent, as she has not remarried.

(ii) The learned trial Judge failed to consider that Ex.R1 is invalid in the eye of law. The husband and wife are not living separately on the basis of Ex.R.1. The trial Court has held that the husband and wife were living separately on the basis of Ex.R1 and hence, the petitioner/wife is not entitled to claim maintenance under Section 125(4) of Cr.P.C., which is not in accordance with law. Hence, he seeks to allow this case.

5. The learned counsel for the respondent made the following submissions:

(i)the respondent herein has accepted the relationship between the parties and there is no dispute over the same.

(ii) Both parties arrived at a settlement before the Village elders



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and the respondent herein has agreed to give property to the petitioner and his daughter for their maintenance and given them the property, as per the settlement.

(iii) After obtaining divorce from the Court below, the respondent herein married another girl and got four children through the second marriage and the respondent is earning only Rs.4,000/- from doing agricultural work and he is liable to maintain his aged old mother, wife and his 4 children.

(iv) The petitioner herein has suppressed all the material facts and filed this petition.

Therefore, he seeks for dismissal of this case.

6. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

7. There is no dispute that the marriage between the petitioner and the respondent took place on 25.06.1990. Due to their wedlock, a child was



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born to them. Thereafter, there was some matrimonial dispute between the parties and both of them have filed the number of proceedings before the Courts below. The divorce petition filed by the respondent was allowed on 10.10.2006. In the meantime, both parties entered into a settlement between them before the village elders and the respondent herein also agreed to give property to the petitioner and his daughter for their maintenance and also given the property. Thereafter, the respondent herein entered into second marriage and got four children through his second wife. In the said circumstances, the respondent is duty bound to maintain his aged old mother and his wife and this children.

8. Therefore, this Court does not find any merits in the submission of the learned counsel for the petitioner and there is no reason to interfere with the order passed by the learned trial Judge in dismissing the maintenance petition filed by the wife.

9. For the reasons state above, this Criminal Revision Case fails and accordingly, the same is dismissed and the order passed by the learned



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District Munsif-Cum-Judicial Magistrate, Thiruchuli, dated 06.04.2022, in

M.C.No.1 of 2021, is hereby confirmed.

26.09.2023

NCC :Yes/No

Index :Yes/No

Internet :Yes/No

sbn

To

1.The learned District Munsif-cum-Judicial Magistrate,
Thiruchuli,
Virudhunagar District.

2.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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