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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15/02/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.RC(MD)No.598 of 2021

P.K.Mohammed Sha : Petitioner

Vs.

P.S.Mohammed Afrin Banu : Respondent

Prayer:- This Criminal Revision has been filed under sections 397 and 401 of the Criminal Procedure Code, to call for the records relating to the grant of maintenance passed in MC No.71 of 2019, dated 04/05/2021 on the Family Court, Tirunelveli, directing the husband to pay a sum of Rs.7,500/- as monthly maintenance to the wife from the date of filing the petition, on 16/09/2019 to till the time fixed for reunion in the Restitution of Conjugal Rights petition in O.S No.25 of 2019 filed by the husband and to set aside the same.

For Petitioner : Mrs.K.Abiya

For Respondent : Mr.N.Pragalathan

**ORDER**

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This revision has been filed seeking an order to set aside the order passed in MC No.71 of 2019 dated 04/05/2021 by the Family Court, Tirunelveli.

2.The facts in brief:-

The marriage between the parties took place, on 03/01/2016 as per the customary rites. At the time of marriage, the wife was provided with sufficient sridhana, house-hold articles, etc. They started living in the matrimonial home as joint family. After the marriage, she became pregnant. But her husband and her in-laws, did not treat her properly and also take care. All the jewels, which belongs to her received by the husband and in-laws and kept in the bureau. She was also insulted, abused in filthy language. In the meantime, the husband went to Chennai for job and she started to continue the life in the matrimonial home. At that time, the sister of the husband used to pick up quarrel even for petty issues. In the meantime, on 11/09/2016 the wife gave birth to a child, but died on the next day. She was advised to take rest for two months. She was taken to Chennai by her husband. Even at the time of living in Chennai, she was



4.At the conclusion of the enquiry, the trial court ordered maintenance of Rs.7,500/- per month.

5.Against which, this criminal revision has been preferred by the husband.

6.Heard both sides.

7.The learned counsel appearing for the petitioner/husband would submit that the respondent/wife purposely avoided for reunion and divorce proceedings were also pending between them.

8.Per contra, the learned counsel appearing for the respondent/wife would submit that the petitioner is working in the IT field and only he is not willing for reunion.

9.The matter was referred to the Mediation and Conciliation attached to this Bench for settlement, but no settlement could be arrived for one or other reasons.



10.The petitioner/husband has given statement that even though he appeared before the Medication Centre twice, the wife did not. The reason for the non-appearance of the wife is not known.

11.Now whatever it may be, it is seen that compromise talk is not possible in the near future. O.S No.25 of 2019 was filed by the husband before the Family Court, Tirunelveli, seeking restitution of conjugal rights. That was also decreed in favour of the husband. It is, dated 04/05/2021. What happened after that is not clear on record. After dismissal of the above said petition, Criminal Miscellaneous Petition was filed under section 125(3) of the Criminal Procedure Code seeking execution of the order of maintenance. Now it is also pending.

12.At the time of argument, the petitioner would submit that the petitioner deposited 50% of the arrear amount as directed by this court. Even though, it has been stated that proceedings for divorce is pending, no document is available to show the same. Even now, the petitioner is ready to live with the wife. He can execute



statement showing the assets and liabilities, as provided in the judgment of ***Rajnesh Vs. Neha and another (Criminal Appeal No.730 of 2020, dated 04/11/2020)***.

15. Reading of the order of the trial court shows that no such document has been filed on the side of the petitioner to show his income, assets and liabilities, so also the wife. It is not a ground of the petitioner that the wife is working and earning sufficiently. But whereas the occupation of the petitioner has been confirmed by the trial court stating that he is earning sufficient income by rearing cattle and only Rs.7,500/- ordered as maintenance that too till the date of the order in O.S No.25 of 2009, which, I find no reason to interfere. No ground is also made by the petitioner either by reducing the monthly maintenance or for setting aside the same.

16. In the result, this criminal revision is **dismissed.**

15/02/2023

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To,
The Family Court,
Tirunelveli.



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