



Crl.R.C.(MD).No.1028 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 15.09.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.1028 of 2023

and

Crl.MP(MD)No.13204 of 2023

P.Highcourtraja

.....Petitioner/Respondent

Vs.

Thangam

.....Respondent/Petitioner

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the order dated 21.03.2023 made in M.C.No.35 of 2022 on the file of the Family Court, Tirunelveli and set aside the same.

For Petitioner : M/s.V.Sorimuthu

ORDER

This Criminal Revision case is filed against the judgment passed in M.C.No.35 of 2022 on the file of the Family Court, Tirunelveli, dated 21.03.2023.



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2. The petitioner the husband filed this Revision challenging the maintenance order dated 21.03.2023, in M.C.No.35 of 2022 on the file of the learned Judge, Family Court, Tirunelveli, granted in favour of his wife.

3. The respondent filed M.C.No.35 of 2022 stating that the petitioner married the respondent on 17.09.2015. The respondent could not bear a child. Hence the petitioner and his family members harassed the respondent by pointing out the same and also demanded further dowry. However, the respondent tolerated the harassment meted out to her. In the mean time, the petitioner filed HMOP.No.134 of 2022 before the Family Court, Sivagangai District, seeking divorce with false allegation. In such circumstances, when the respondent went to see her mother who was ailing, the petitioner and his family members broke the lock of the house, where the petitioner and the respondent lived together and locked the house with another lock. When the same was questioned by the respondent, they were said to have abused her in filthy language and also assaulted her and caused injuries. Hence, she left the matrimonial home and taken treatment in the Medical College Hospital, Tirunelveli for injuries. In this regard, she gave a complaint before the Melappalayam Police Station against the petitioner and his family members and



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the same was registered in Crime No.212 of 2022. The petitioner is a painting contractor and earning a sum of Rs.25,000/- per month. Further, he is drawing a sum of Rs.30,000/- from the rental house and agricultural land. Hence, the petitioner has sufficient means to give maintenance to the respondent. Since she is unable to maintain herself, she filed M.C.No.35 of 2022 seeking total maintenance of Rs.20,000/-.

4. The petitioner filed counter by denying the allegation made in the petition and he alleged that the respondent on her own volition, left the matrimonial home. Thereafter, she lodged a complaint before the jurisdictional police with the false allegations. The petitioner never demanded any dowry as alleged in the complaint. He filed HMOP.No.134 of 2022 before the Family Court, Sivagangai District, seeking divorce. The petitioner further stated that he is working as painter and earning only a sum of Rs.7,200/- per month. He also spend Rs.2,000/- for his ailing mother who is a heart patient and Rs.2,000/- for rent. But, the respondent is a well educated woman, working in a Medical Store and earning Rs.12,000/- per month and also earning Rs.1,200/- by rolling beedi. Hence, she has sufficient means to maintain herself and seeks dismissal of the maintenance petition.



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5. The learned trial Judge after considering the oral evidence of the respondent and the petitioner and Ex.P.1 to Ex.P.6, granted maintenance of Rs.6,000/- to the respondent.

6. Aggrieved against the same, the present Revision has been filed by the petitioner.

7. The learned counsel for the petitioner submitted that the petitioner is working as painter and earning only Rs.7,200/-. But, the respondent is a well educated woman, working in a Medical Store and earning Rs.12,000/- per month and also earning Rs.1,200/- by rolling beedi. Therefore, the respondent has sufficient means to maintain herself and the petitioner is not liable to pay any maintenance to the respondent. Hence, the order passed by the Court below is liable to be set aside.

8. The learned counsel for the respondent submitted that the petitioner himself filed HMOP before the Court below seeking divorce with the false allegations against the respondent. Since the petitioner caused cruelty to the



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respondent, she left the matrimonial home. The learned trial Judge after considering the income of the petitioner granted only minimum amount as maintenance. Further, the learned trial Judge after appreciation of evidence held that the petitioner never established the income source of the respondent. Therefore, the order of the learned trial Judge is in accordance with law and hence, he seeks dismissal of this petition by confirming the maintenance award passed by the Court below.

9. This Court considered the submission of the both parties and perused the records and the impugned order.

10. Admittedly, there is no dispute relating to the relationship between the parties. From the records, it is clear that the petitioner filed HMOP.No.134 of 2022 seeking divorce with the allegation against the respondent and the same was denied by the respondent. In view of the rival allegation, it is not necessary for this Court to go into the matrimonial disputes between the parties in detail in the summary proceedings, more particularly, when the HMOP filed by the petitioner for dissolution of marriage is pending before the competent Court. Further, it is settled principle that during the pendency of the divorce proceeding



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initiated by the husband, he owes a duty to pay maintenance to his wife. Hence, it is the duty of the petitioner to pay the maintenance to the respondent. Since the petitioner admitted the relationship, as a husband, he is duty bound to maintain her.

11. The petitioner admitted that he is receiving rental income from two houses belonging to his parents. Apart from that, he is also receiving income from three houses of his paternal Aunt as a legal heir. Above all, he is earning by doing painting work. Per contra, the respondent is living in a rental house and she has no source of income. Therefore, the learned trial Judge considered all the above aspects, granted maintenance of Rs.6,000/- to the respondent. The said amount is reasonable, considering the present day cost of living and the economic status of both the parties. Hence, this Court does not find any perversity in the order passed by the learned trial Judge.

12. It is well settled principle that the petitioner 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 the case of



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Rajathi v. C. Ganesan reported in **AIR 1999 SC 2374:-**

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“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 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.”

13. Accordingly, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes/No
Internet: Yes/No
dss/sbn



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1. The Judge,
Family Court,
Tirunelveli.
2. The Section Officer,
Record Section (Criminal),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

dss

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