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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.04.2023

Delivered on : 02.06.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.R.C.(MD).No.702 of 2020

Siva Ramkrishnan : Petitioner / Respondent

Vs.

Poorani @ Subha : Respondent / Petitioner

PRAYER: Criminal Revision Petitions have been filed under Section 397 r/w 401 of Cr.P.C, to call for the records relating to the order, dated 03.02.2020 made in M.C.No.64 of 2017 on the file of the Family Court, Trichy and set aside the same as illegal.

For Petitioner : Mr.J.Karthikeyan,

For Respondent : Mr.G.Karuppasamy Pandian

ORDER

The Criminal Revision Case is directed against the order passed in M.C.No.64 of 2017, dated 03.02.2020 on the file of the Family Court, Trichy.

2. Admittedly, the marriage between the petitioner and the respondent was solemnized on 06.02.2017, at Railway Society Marriage Hall, Trichy.



3. The respondent/wife, alleging cruelty, has filed a petition under Section 125 Cr.P.C, claiming maintenance. The petitioner/husband has filed counter statement raising so many allegations against his wife, disputed his liability to pay any maintenance. During enquiry, the respondent has examined herself as P.W.1 and exhibited three documents as Ex.P.1 to Ex.P.3 and the revision petitioner has examined himself as R.W.1 and adduced no documentary evidence. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the impugned order dated 03.02.2020, directing the revision petitioner to pay monthly maintenance at Rs.10,000/- to the respondent from the date of petition till respondent's re-marriage or the respondent getting permanent employment. Aggrieved by the said order, the husband has come forward with the present revision.

4. As usual in the matrimonial proceedings, the revision petitioner/husband and the respondent/wife are making allegations and counter allegations against each other.

5. Though the respondent/wife has claimed that there was no consummation of marriage, the same was disputed by the revision petitioner. But the fact remains that though the marriage was solemnized on 06.02.2017, they got separated and are living separately from 12.03.2017.



6. It is not in dispute that the respondent has filed a complaint under the provisions of Domestic Violence Act in D.V.C.No.107 of 2017 and the same was pending at the time of filing of the maintenance case. But during the pendency of the maintenance proceedings, the Additional Mahila Court after conducting enquiry in D.V.C.No.107 of 2017, has passed the judgment dated 20.12.2019, dismissing the complaint.

7. Considering the evidence available on record, the learned Judge by specifically observing that the petitioner and the respondent due to their misunderstanding got separated within a month, since the marriage; that there was no consummation of marriage, that the respondent/wife has suffered cruelty both mentally and physically and the efforts for their reunion was ended in vein; that since the revision petitioner/husband in his evidence has specifically stated that he is not willing to live with the respondent and since both of them were living separately from March 2017 onwards, there was no scope for reunion, has come to a decision that the respondent/wife is entitled to get maintenance. Considering the pleadings of both parties and the evidence available on record, the above finding of the trial Court cannot be found fault with.

8. The learned counsel for the petitioner would mainly contend that the respondent/wife has miserably failed to prove the income of the revision



petitioner; that the trial Court has failed to consider that the respondent is an MBA graduate and she was working in a company before her marriage and that therefore, getting a job again will not be too tough for the respondent; that the respondent's father is working as a railway police which gives additional support for her dignified life; that the trial Court has also failed to consider that the petitioner is the only son for his old age parents and is duty bound to provide financial assistance for their living and medical expenses and that in the absence of any evidence, fixation of monthly maintenance at Rs.10,000/-, is very high and is unsustainable in law.

9. The respondent in the petition filed under Section 125 Cr.P.C and in her evidence has specifically stated that her husband is working as a Senior Software Engineer in Uniphore Software System in Chennai and is getting monthly salary more than Rs.75,000/-; that respondent is without any job or income and is residing with her parents and that the revision petitioner has not paid any amount towards maintenance to the respondent.

10. As rightly contended by the learned counsel for the respondent, though the revision petitioner/husband has filed a lengthy counter statement, he has not specifically disputed the petition averments that he is working as software engineer in Uniphore Software System in Chennai and is getting monthly salary



more than Rs.75,000/-. It is pertinent to note that the respondent while giving evidence as P.W.1 has also deposed about the avocation and the income of her husband and that though P.W.1 was subjected to lengthy cross examination, her evidence with regard to the revision petitioner's avocation and income was not at all challenged.

11. Moreover, the respondent has also not disputed the above facts in his evidence. The revision petitioner has nowhere denied and disputed the case of the respondent that he is working as software engineer in Uniphore Software System in Chennai and is getting monthly salary more than Rs.75,000/-. Admittedly, the revision petitioner has not chosen to produce the salary certificate or pay slip to show that he was not getting monthly salary of Rs.75,000/-.

12. As rightly contended by the learned counsel for the respondent, in the absence of any contra evidence and taking note of the fact that the revision petitioner is a software engineer, the trial Court has fixed the monthly maintenance at Rs.10,000/-. Since the revision petitioner has neither raised any pleadings nor adduced any evidence with regard to his avocation and income, accepting the case of the respondent and fixing the monthly income at Rs.10,000/- by the trial Court cannot be found fault with.



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13. Considering the entire facts and circumstances and also the status of the parties and the present economic scenario, the fixation of the monthly maintenance at Rs.10,000/- in the present proceedings under Section 125 Cr.P.C., cannot be found fault with and the amount awarded by the learned trial Judge is reasonable and the same cannot be said to be excessive. The revision petitioner has not advanced any other reason or ground to impugn the order. Hence, this Court decides that the revision is devoid of merits and the same is liable to be dismissed. Considering the other facts and circumstances of the case, this Court further decides that parties are to be directed to bear their own costs and the above point is answered accordingly.

14. In the result, this Criminal Revision Case is dismissed. Parties are directed to bear their own costs.

02.06.2023

NCC : Yes/No

Index : Yes/No

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To

1. The Judge, Family Court, Trichy
2. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

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Pre-delivery order made in
CRL.R.C.(MD).No.702 of 2020

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