



Crl.R.C.(MD).No.842 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2023

CORAM :

THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN

Crl.R.C(MD).No.842 of 2019

and

CrI.M.P(MD).No.9884 of 2019

Saraboji

... Petitioner/Respondent

Vs.

Latha

... Respondent/Petitioner

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C., to call for the records pertaining to the judgment in M.C.No.116 of 2015 on the file of the Family Court, Trichirappalli, dated 19.02.2019 and set aside the same.

For Petitioner : Mr.M.R.R.Sivasubramanian

For Respondent : M/s.T.Banumathi



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ORDER

The petitioner filed this revision challenging the maintenance order passed in favour of his wife by the learned Judge, Family Court, Trichirappalli, in M.C.No.116 of 2015 by the impugned order dated 19.02.2019.

2. The respondent married the petitioner on 05.09.2001. At the time of marriage, the petitioner was working in the Indian Army. He retired from the service on 31.12.2007. Now, he is working in the Veterinary Department and he also owns a house and immovable agricultural properties. Out of the marriage, a female child and a male child were born. Thereafter, there was some dispute between the respondent and the petitioner. The petitioner suspected that respondent is of unsound mind. Hence, the respondent left the matrimonial home and living with her parents. Even though, the children are under the care and custody of the petitioner, without any income to meet out her livelihood, the respondent filed the maintenance claim in M.C.No.116 of 2015 on the file of the Family Court, Trichirappalli, by claiming monthly maintenance of Rs.10,000/-.



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3. The petitioner filed the counter before the trial Court stating that the respondent is of unsound mind and on her own volition she left from the matrimonial home and living with her parents without any reasonable cause. According to the petitioner, due to the unsound mind of the respondent, the second child got affected and he has saved the child by giving proper treatment. Hence, he prayed to reject the maintenance claim.

4. During the course of the proceedings, in order to substantiate the claim, the respondent examined herself as P.W.1 and filed the documents Ex.P.1 to Ex.P.4 and on the side of the petitioner he examined himself as R.W.1 and R.W.2 also was examined and Ex.R.1 & Ex.R.2 were marked.

5. The learned trial Judge after considering the evidence has come to the conclusion that the petitioner/husband is earning a sum of Rs.50,000/- per month. In the absence of the contra evidence by the husband, the learned trial Judge has taken the income of the husband as Rs.50,000/- and granted only Rs.8,000/- as maintenance to the respondent.



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6. Challenging the same, the petitioner filed this Revision on the grounds stated in the memorandum of grounds of Revision.

7. The learned counsel appearing for the petitioner would submit that due to the health condition of the respondent, the children are under the care and custody of the petitioner. This is no income from his immovable properties. Hence, the maintenance amount of Rs.8,000/- granted by the Court below is not legally sustainable and the same is liable to be set aside.

8. The learned counsel for the respondent would submit that the petitioner admitted that he received a sum of Rs.50,000/- as monthly salary and also has a own house. Apart from that, he receives pension also. In the said circumstances, the learned trial judge, considered the above aspects and also considering the present day cost of living and the medical expenditure, granted maintenance amount of Rs.8,000/-. The same is reasonable and no interference is required in the order passed by the trial Court. Hence, he prayed for dismissal of the petition.



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9. This Court considered the submission of the learned counsel for the petitioner and the learned counsel for the respondent and perused the documents filed by the revision petitioner.

10. Admittedly, there is no dispute regarding the relationship between the parties. The marriage of the petitioner and the respondent is admitted. Till date, there is no separation. Further, the petitioner as per his own evidence, admitted that he received a salary of Rs.50,000/- & pension and also having a own house. The learned trial Judge after appreciating the evidence and records, held that the petitioner is now living with another woman. In the said circumstances, grant of Rs.8,000/- considering the the living cost of the present day and the other circumstances, is not exorbitant and the same is reasonable one. Hence, this Court has no power to interfere with the quantum of maintenance as held by the Hon'ble Supreme Court judgment in the case of **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



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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.”

11. Accordingly, this Criminal Revision Case is dismissed and order passed by the learned Family Judge, Family Court, Trichirappalli, in M.C.No.116 of 2015 dated 19.02.2019, is confirmed. Consequently, the connected miscellaneous petition is closed.

14.12.2023

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



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To

1. The Judge,
Family Court,
Trichirappalli.
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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