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Crl.R.C.(MD).No.933 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2023

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THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.933 of 2021

Senthilvelavan

... Petitioner

Vs.

1.Vigneshwari @ Ramu

2.Minor Raja.

.. Respondents

(Minor rep. by his mother and natural Guardian the first respondent)

PRAYER: This Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining in M.C.No.38 of 2019 on the file of learned Family Court, Ramanathapuram and set aside the order, dated 25.02.2021.

For Petitioner : Mr.S.Muthusamy

For Respondents : Mr.R.Babu Jeganath

ORDER

This Criminal Revision Case has been preferred against the order dated 25.02.2021, passed in M.C.No.38 of 2019 on the file of learned Family Court, Ramanathapuram.



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2.The brief facts in brief:

The marriage between the husband and wife took place on 30.11.2017, as per their family customary rites. At the time of marriage she was provided with sufficient seervarisai, jewels, house hold articles, etc., Even before the marriage, the husband addicted to liquor. After the marriage, he used to come late to the house. In the mean time, the wife became pregnant. Because of the habit of the husband, frequent trouble arose between them. On the particular date, she was assaulted by the husband with wooden log. Because of the above said assault, her speech became affected. On 03.10.2018, a child was born. Even the child was not visited by the husband and he did not take them to the matrimonial home also. By giving false facts, the husband filed H.M.O.P.No.38 of 2018, seeking divorce as if his wife is suffering from mental illness. The husband is working in a TASMACH shop and earning Rs.10,000/- per month, apart from that he is also owning agricultural properties. Seeking maintenance amount of Rs.15,000/- for herself and Rs.5,000/- for the child, she filed the maintenance petition.

3.That was resisted by the husband stating that even before the marriage, the wife was suffering from mental illness and her speech was also affected. But those facts were suppressed from him. Even the wife is



not attending her regular natural duty properly. When that was informed with the parents, she was taken by her parents by picking up quarrel. At that time, she was pregnant. With regard to the income also, he disputed the correctness of the pleadings.

4.At the conclusion of the enquiry process, the trial Court awarded Rs.2,500/- per month to the wife and Rs.2,000/- to the child. Totally Rs.4,500/- was ordered to be paid as maintenance. Challenging the above said order, this revision has been preferred.

5.Heard both sides.

6.I am unable to appreciate the reasons that has been made in the revision petition. Only Rs.4,500/- was ordered as maintenance amount to the wife and child. With regard to the mental capacity of the wife, no proper document is available and it is a matter for consideration by the Family Court, before which, the above said matrimonial proceedings are pending for divorce. The wife was examined as witness before the trial Court and has given the evidence in a cogent manner. When lengthy cross examination was done by the husband, nothing has been extracted from her to doubt her mental capacity. During the course of evidence, the husband



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has also admitted that he filed the petition seeking divorce, which was followed by the petition seeking maintenance. I am not going to assess the mental capacity of the wife for the reason stated above.

7.Now there is sufficient reason for the wife to live separately, since the husband is not taking steps to retake her to the matrimonial home. With regard to the financial capacity, he has admitted himself that he is working in a TASMACH shop and his Pay Certificate has also been produced, wherein, we can see that he was working as a Temporary Employee in the TASMACH shop and in the year of 2019, he was getting gross salary of Rs.10,100/-. But, the present pay particulars are not available. Whatever it may be, at the time of petition enquiry, he was getting sufficient salary. So necessarily, he has to share his income with the wife and child for maintenance. Only Rs.4,500/- in total has been ordered as maintenance, which cannot be considered as excessive. I find no reason to interfere with the impugned order. This petition deserves to be dismissed. Accordingly, **dismissed**.

02.02.2023

Index : Yes / No
Internet : Yes / No
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To

1. The Judge, Family Court, Ramanathapuram.

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G.ILANGOVA,J.

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