



Crl.R.C.(MD).No.835 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	:	18.08.2023
Pronounced on	:	02.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD). No.835 of 2023
and
CrI.M.P(MD). No.11194 of 2023

V.R.Rajangam

... Petitioner/ Petitioner/Respondent

Vs.

Dhanam @ Dhanalakshmi

... Respondent/Respondent/Petitioner

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records and set aside the order in Cr.M.P.No.854 of 2023 in M.C.No.1 of 2018 dated 18.07.2023 passed by the learned District Munsif cum Judicial Magistrate, Natham.

For Petitioner : Mr.K.R.Badurus Zaman



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ORDER

The Criminal Revision case has been filed as against the impugned order in Cr.M.P.No.854 of 2023 in M.C.No.1 of 2018 dated 18.07.2023, passed by the learned District Munsif cum Judicial Magistrate, Natham.

2. The petitioner is the husband. He has filed this petition challenging the dismissal order passed in Cr.M.P.No.854 of 2023, filed under Section 247 of Cr.P.C., to examine the Tahsildar in order to substantiate his pleading that the respondent wife has a number of agricultural properties and earning sufficient income to maintain herself.

3. The respondent is the wife of the petitioner, he filed a petition in M.C.No.1 of 2018, on the file of the District Munsif cum Juicial Magistrate, Natham, claiming maintenance. It is averred in the petition that she entered into marriage with the petitioner, 33 years before the initiation of the maintenance proceedings. According to the respondent, the petitioner had an illegal intimacy with one Kalyani and refused to maintain the respondent herein. Therefore, the respondent filed a maintenance petition before the Court below.



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4. The petitioner herein had filed a counter denying all the allegation and also specifically pleaded that the respondent has a number of agricultural properties and she is deriving sufficient income to maintain herself.

5. After examination of the respondent, the petitioner filed a petition under Section 247 of Cr.P.C., to examine the jurisdictional Tahsildar on his side, to prove the income of the respondent from the agricultural land. The same was dismissed by the learned trial Judge, stating that the income of the respondent from the agricultural source has to be proved independently and the respondent herself is admitted in her cross examination relating to the existence of the agricultural land. In the said circumstances, the petitioner filed a petition to prolong the hearing of the cases/ to prolong the litigation.

6. The learned counsel for the petitioner submitted that to prove the income of the respondent/wife, he filed a petition to examine the jurisdictional Tahsildar, the same was dismissed by the learned trial Judge, which is against the requirement of Section 247 of Cr.P.C. Therefore, in the interest of justice, the same has to be allowed.



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7. This Court considered the submission of the learned counsel for the petitioner and perused the impugned order and relevant records.

8. The respondent/wife has been cross examined by the petitioner. In her cross examination, she admitted the existence of the agricultural land. Section 247 of Cr.P.C., only provides that to examine material witness to prove the relevant fact. In this case, the relevant fact is the income of the respondent. The Tahsildar is not a competent authority to prove the income of the respondent from the agricultural land. The Tahsildar is an authority to ascertain whether the agricultural land is standing in the respondent's name or not. But in this case, the respondent herself admitted that she has a number of agricultural land. Now, the duty of the petitioner is to prove through the independent evidence about the income of the respondent/wife. Without doing the same, the petitioner filed this criminal case under Section 247 of Cr.P.C., and the same has correctly been considered by the learned trial Judge that the petitioner filed a petition to prolong the maintenance case. Therefore, this Court finds no merits in the contention of the petitioner and the same is according to this Court is a correct one. In the said circumstances, the relief claimed by the petitioner in Cr.M.P.No.854 of 2023 is a



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misconceived one. The learned trial Judge correctly dismissed the petition filed by the petitioner under Section 247 of Cr.P.C.

9. Therefore, this Court finds no reason to interfere with the order passed by the learned trial Judge. Accordingly, this criminal revision case is dismissed. Consequently, connected miscellaneous petition stands closed.

02.11.2023

NCC : Yes/No

Index : Yes/No

Internet: Yes/No

sbm

To

1. The District Munsif cum Judicial Magistrate,
Natham.
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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Pre-delivery Order made in
Crl.RC(MD). No.835 of 2023
and
Crl.M.P(MD). No.11194 of 2023

02.11.2023