



Crl.R.C.Nos.969 and 2134 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M. DHANDAPANI

Crl.R.C.No.969 of 2023 and Crl.M.P No.7837 of 2023
and
Crl.R.C No. 2134 of 2023

Crl.R.C.No.969 of 2023

T. Rajendran

.... Petitioner

Versus

R.Joyce Vatchala Bai

.... Respondent

Crl.R.C.No.2134 of 2023

R.Joyce Vatchala Bai

.... Petitioner

Versus

T. Rajendran

.... Respondent

Common Prayer: These Criminal Revision Cases are filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 05.01.2023 passed by the learned Judge, Family Court, Salem, in M.C.No.61 of 2019.



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For Petitioner : Mrs.K.Santhakumari

For Respondent : Mr.C.Prabakaran

Crl.R.C.No.2134 of 2023

For Petitioner : Mr.C.Prabakaran

For Respondent : Mrs.K.Santhakumari

COMMON ORDER

Both the Civil Revision Cases are filed by the husband and wife as against the Award passed by the trial Court in the maintenance case filed by the wife.

2. Since both the Revision Cases are filed as against the Order dated 05.01.2023 passed in M.C No.61 of 2019 on the file of the Family Court, Salem, which shall be disposed of by a common order, for comprehending the parties are referred to as husband and wife in the forthcoming paragraphs.



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3. The learned counsel for the husband would submit that the marriage of the husband and wife was solemnised on 03.06.1982 at CSI Christ Church, Kottai, Salem and out of the wed lock, they blessed with a female child namely, Angelin Selvi and thereafter, on 20.05.1983, the wife left the matrimonial house and living with her parents at Dharmapuri and never taken care of the husband and after performing the marriage of the female child, in order to wreck vengeance against the petitioner, she filed a maintenance case under Section 125 of Cr.P.C. The trial Court without considering the materials placed on record, has awarded a sum of Rs.2,500/- as monthly maintenance which is not sustainable. Against which the present revision case in Crl.R.C No.969 of 2023 is filed.

4. Learned counsel for the husband would further submit that as per Section 125 (1) (a) of Cr.P.C if the wife is not able to maintain herself, she can file a maintenance case. But, in this case, the wife was employed as Administrative Officer at National Insurance Company, Salem Branch and after her retirement, she is receiving a sum of Rs. 48,933/- as monthly pension and apart from that, she owned a property at Muhil Nagar,



Narasothipatti, Salem worth about Rs.80,00,000/-. Subsequently, she sold the property at Rs.65,00,000/- and her financial status was not demonstrated by her before the trial Court. In order to harass the husband, the wife has filed a maintenance case seeking maintenance amount of Rs.25,000/-. The trial Court awarded a sum of Rs.2500/- to the wife which is totally excessive and not warranted against the tenor of Section 125 Cr.P.C.

5. Learned counsel for the wife would submit that it is not disputed that the marriage between the husband and wife was held in on 03.06.1982 at CSI Christ Church, Kottai, Salem. However, within a year, the husband deserted the wife and her child, though he was employed as Deputy Manager in Indian Overseas Bank, Salem Branch. The marriage between them was an arranged marriage. However, the husband failed to take care of his wife and child and only through her hard earned money, she developed her female child and she had given her daughter in marriage by spending huge amount and she sold her property for the well settled life of her daughter. However, no single pie was spent by the husband for the future life of the female child. Till date, the wife alone is taking care of the female



daughter and her family and though she is receiving Rs. 48,933/- as monthly pension, that amount is not sufficient to take care of her grand child and to meet out her medical expenses and other valid expenses. The factum of receiving pension of the petitioner does not the criteria to award lesser maintenance. But, the trial Court erred in granting only Rs.2,500/- as monthly maintenance which is very meager and therefore, she prayed for enhancement of maintenance amount.

6. Heard both the learned counsel appearing for the husband wife.

7. It is not disputed that the marriage was solemnised between the husband and wife and out of their wedlock, a female child was born to them. However, from the date of separation of husband and wife, the female child was taken care of only by the wife. It is also not disputed that the marriage of the daughter was performed by the wife and the father had not spent even a single pie for the female child for her marriage, educational expenses and other expenses. Hence the wife had filed a maintenance case before the trial Court claiming a sum of Rs.25,000/-. However, the Family Court, Salem



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after taken into consideration the oral and documentary evidence and the submissions made on either side, has rightly awarded a sum of Rs.2,500/- as maintenance to the wife. Hence, this Court is of the view that when the wife is receiving a sum of Rs.48,933/- as monthly pension, that is sufficient to maintain herself, however, the husband is also duty bound to maintain the wife. Therefore, no prejudice would be caused to both the husband and wife in view of the award passed by the trial Court and the same does not call for any interference by this Court.

8. Accordingly, the order dated 05.01.2023 passed in M.C. No.61 of 2019 by the Family Court, Salem is confirmed and both the Criminal Revision Cases are dismissed. Consequently, connected Miscellaneous Petition is closed.

06.06.2024

Index:Yes/No
Internet:Yes/No
Speaking/Non-speaking order
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To
The Judge, Family Court, Salem.



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M. DHANDAPANI, J.

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