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Crl.R.C.No.559 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.559 of 2022

Janani

... Petitioner

Vs.

Sathish

... Respondent

Prayer:

Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code, seeking to set aside the judgment dated 25.02.2022 made in M.C.No.03 of 2019, on the file Judicial Magistrate No.1, Bhavani by allowing this revision.

For Petitioner : Mr.S.Sivakumar
For Respondent : Mr.C.S.Saravanan

ORDER

The criminal revision case has been filed seeking to set aside the order dated 25.02.2022 passed by the learned Judicial Magistrate No.1, Bhavani in M.C.No.03 of 2019.

2.The case of the petitioner is that the petitioner is the wife and



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the respondent is the husband. Their marriage was solemnized on 25.02.2018. Thereafter there was a matrimonial dispute between them and the petitioner filed maintenance case under Section 125 of Cr.P.C. in M.C.No.03 of 2019 before the Judicial Magistrate No.1, Bhavani seeking monthly maintenance of Rs.20,000/-. The Court below dismissed the said petition on the ground that the petitioner without any sufficient reason refused to live with the respondent. Challenging the same, the present revision has been filed.

3.The learned counsel appearing for the petitioner submitted that the respondent filed petition for Restitution of Conjugal Rights in FCOP No.326 of 2019 before the Family Court, Erode and the same was dismissed, however, the Court below inadvertently construed that the petitioner refused to live with the respondent without any sufficient reason and dismissed the maintenance case, which is not sustainable.

4.The learned counsel appearing for the respondent submitted that the respondent was very affectionate with the petitioner and even today, he is ready to live with the petitioner, however, the petitioner without any sufficient reason refused to live with the respondent.



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5.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondent.

6.The facts of the case and the relationship between the parties is not disputed. Pursuant to the matrimonial dispute, the petitioner filed maintenance case under Section 125 of Cr.P.C. in M.C.No.03 of 2019 before the Judicial Magistrate No.1, Bhavani seeking monthly maintenance of Rs.20,000/-. The Court below dismissed the said petition on the ground that the petitioner without any sufficient reason refused to live with the respondent. However, the fact remains that already the respondent filed petition for Restitution of Conjugal Rights in FCOP No.326 of 2019 before the Family Court, Erode and the same was dismissed, however, the Court below inadvertently construed that the petitioner refused to live with the respondent without any sufficient reason, contrary to the order passed in FCOP No.326 of 2019.

7.In view of the above, the order dated 25.02.2022 passed by the learned Judicial Magistrate No.1, Bhavani in M.C.No.03 of 2019 is set aside. Admittedly, the petitioner and the respondent are residing in Village and they are not living in Municipal or Corporation area. The respondent claim that he earn only Rs.15,000/- per month, whereas,



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the petitioner claim that the respondent earn Rs.50,000/- per month, however, no document was filed to prove the income of the respondent. Hence, this Court is of the view that the petitioner is entitled to a sum of Rs.7,500/- per month towards maintenance. Since the maintenance case is of the year 2019, this Court directs the respondent to deposit the entire arrears at the rate of Rs.5,000/- per month from the date of petition in M.C.No.03 of 2019, i.e., 10.05.2019 till today (04.04.2024) to the credit of M.C.No.03 of 2019 on the file of the learned Judicial Magistrate No.1, Bhavani, within a period of six weeks from the date of receipt of a copy of this order. Thereafter, the respondent shall continue to pay a sum of Rs.7,500/- per month to the petitioner towards maintenance on or before 7th of every succeeding English Calender Month.

8.The criminal revision case is allowed on the above terms.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Judicial Magistrate No.1,

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Bhavani.

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M.DHANDAPANI,J.
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