



CrI.RC.No.1223 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2024

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

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P.Gajalakshmi

...Petitioner

Vs.

M.Ramachandiran

...Respondent

Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. to set aside the judgment dated 30.01.2024 in FCMC.No.3 of 2021 passed by the Family Court, Chengalpattu.

For Petitioner : Mr.G.Balasubramanian

ORDER

This Criminal Revision Case has been filed seeking quashment of the order passed in FCMC.No.3 of 2021 dated 30.01.2024 on the file of the Family Court, Chengalpattu.

2. The case of the petitioner is that, the marriage between the



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petitioner/wife and and the respondent/husband was solemnized on 09.02.2007 and out of the wedlock, they were blessed with two male child. Since the respondent and his family members continuously harassed the petitioner, they got separated and as the respondent refused to maintain the petitioner, she filed a maintenance case u/s. 125 Cr.P.C. in M.C.No.3 of 2021 on the file of the Family Court, Chengalpattu claiming a monthly maintenance of Rs.25,000/-. After adjudication, the trial court, vide impugned order dismissed the maintenance case filed by the petitioner. Challenging the same, the present revision has been filed by the petitioner/wife.

3. Learned counsel for the petitioner submitted that, right from the date of marriage, the respondent/husband and his parents continuously harrassed the petitioner/wife and the petitioner and the respondent lived separately most of the time and the children were always under the care and custody of the respondent/husband and they hardly lived along with the petitioner. Thereby, the elder son, who was examined as RW2 before the trial court, based on the instigation of the respondent/husband, falsely



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deposed that he saw the petitioner in a compromising position with some other person. Further, apart from the deposition of the RW2, no other documentary evidence has been produced by the respondent before the trial court to establish that the petitioner is living in adultery and without any proper evidence, making such a false and baseless allegation as against the petitioner is wholly unsustainable. However, the trial court, without considering any of the said contentions, merely based on the deposition of the elder son of the petitioner, dismissed the maintenance case filed by the petitioner, which cannot be acceded to. Accordingly, he prayed for appropriate orders.

4. This Court gave its careful consideration to the submissions advanced by the learned counsel for the petitioner and perused the materials placed on record.

5. Though the respondent is not represented, however, in view of the fact that the order, which this Court proposes to pass does not in any way affect the respondent, this Court proceeds with the appreciation of



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the case of the petitioner on merits.

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6. There is no dispute about the marriage between the petitioner and the respondent. The respondent is the wife and out of their wedlock, they were blessed with two children. It is to be pointed out that it is the duty of the husband to maintain his wife and child and the comforts, which were available to the spouse and child should not be lost due to the friction between the warring parties. Only to that end, Section 125 Cr.P.C. was brought into the statute. In such a backdrop, it becomes the duty of the husband to maintain his wife and child.

7. The grounds on which maintenance can be rejected to the wife can be only on the ground that wife is able to maintain herself and she has the requisite means to maintain herself and that she is living in adultery and where the person, who offers to maintain his wife on condition of her living with him and she refuses to live with him, only on such of those grounds, maintenance could be negated against the wife.

8. In the case on hand, it is not the case of the petitioner/husband



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that his wife has sufficient means to maintain herself by her earnings or that he is ready to maintain her if she comes and lives with him, but that, his wife is refusing to unite with him. The major contention of the petitioner is that, the petitioner is living in adultery and in order to establish the same, he examined his elder son as RW2, aged about 14 years at the relevant point of time, who clearly deposed before the trial court that, on 18.06.2021 at about 11 pm., when he woke up to attend his natural call, he saw his mother, the petitioner herein in a compromising position with some other person.

9. Though the petitioner claim that her elder son made such a false allegation as against the petitioner solely based on the instigation of his father, the respondent herein, however, this Court is of the opinion that, there is no necessity for a 14 years old boy to depose against his mother that too about adultery and therefore, the evidence of the RW2 is believable and trustworthy. Hence, the trial court, upon careful consideration of the documentary evidence as also the deposition of the witnesses examined by the parties, had come to the conclusion that the



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respondent proved that the petitioner is living in adultery and thereby dismissed the maintenance case filed by the petitioner. When the basis of such a finding is the deposition of the respondent's side witnesses, which has been rightly appreciated by the court below while dismissing the maintenance case, the same does not warrant any interference.

10. For the reasons aforestated, this Criminal Revision Case stands dismissed.

25.07.2024

skt

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To

The Family Court,
Chengalpattu.

M.DHANDAPANI, J.



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