



WEB COPY



Crl.R.C.No.641 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.04.2024

CORAM:
THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

Crl.R.C.No.641 of 2022
and
Crl.M.P.No.6723 of 2022

Rubakaran

...Petitioner

Vs.

1.Umamaheshwari

2.Minor Sharamitha

...Respondents

(The 2nd respondent/minor is
represented by her next friend
/mother, the 1st petitioner)

PRAYER: Criminal Revision case filed under Section 397 r/w Section 401
of Code of Criminal Procedure to call for the records pertaining to the order
dated 12.03.2020 and made in M.C.No.209 of 2018 on the file of the
learned Principal Family Judge at Coimbatore and set aside the same.

For Petitioner : Mr.M.Jayachandran

For Respondents : Mr.R.Ganesh Babu



Crl.R.C.No.641 of 2022

ORDER

This Criminal Revision petition is filed seeking to set aside the order dated 12.03.2020 made in M.C.No.209 of 2018 on the file of the learned Principal Family Judge at Coimbatore.

2. The case of the petitioner is that, the first respondent/wife filed a petition seeking divorce in H.M.O.P.No.180 of 2017 against the petitioner /husband on the file of Principal Sub-Court, Coimbatore and the original petition for restitution of conjugal rights was filed by the petitioner in H.M.O.P.No.181 of 2017 on the file of Principal Sub Judge, Coimbatore and both the cases were tried jointly. After adjudication a common order dated 05.04.2018 was passed dismissing the original petition filed by the wife and by allowing the original petition seeking restitution of conjugal rights filed by the husband. Challenging the said order, the first respondent has preferred two civil miscellaneous appeals in C.M.A.No.28 and 29 of 2018 on the file of Principal District Court, Coimbatore and the same is still pending. As the respondents 1 and 2 was driven out of the matrimonial home, they filed a maintenance case u/s.125 of Cr.P.C in M.C.No.209 of 2018 seeking a sum of Rs.10,000/- each as monthly maintenance on the file



Crl.R.C.No.641 of 2022

of Principal Family Court, Coimbatore and the same was partly allowed vide order dated 12.03.2020 with a direction to the petitioner to pay a sum of Rs.7,000/- to the first respondent for her maintenance and a sum of Rs.3,000/- to the second respondent till she attains majority. Challenging the same, the petitioner is in this criminal revision petition.

3. Learned counsel for the petitioner submits that since the first respondent has willfully left the matrimonial home, she is not entitled for maintenance. More so, the petitioner is running only a cell phone shop and the income earned by him is very meagre to meet out his day to day expenses. However, without considering the above said facts, the trial Court, has passed an award directing the petitioner to pay a sum of Rs.7,000/- to the first respondent and a sum of Rs.3,000/- to the second respondent is wholly unsustainable. Hence, he prayed to allow this revision petition.

4. Learned counsel appearing for the respondents submit that upon considering the oral and documentary evidence, the trial Court has passed the order dated 12.03.2020 which cannot be interfered with.



Crl.R.C.No.641 of 2022

WEB COPY 5. Heard the learned counsel appearing on either side and perused the materials placed on record.

6. There is no dispute about the marriage between the petitioner and the first respondent. The petitioner is the husband and the first respondent is the wife and the second respondent is the child of the petitioner. It is to be pointed out that it is the duty of the husband to maintain his wife and children and the comforts, which were available to the spouse and the children 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 children.

7. On a perusal of the order passed by the trial Court reveals that upon considering all the oral and documentary evidence, the impugned order has been passed and as the duty casts upon the husband to maintain his wife and children, the trial Court has granted maintenance in a sum of Rs.7,000/-



Crl.R.C.No.641 of 2022

in favour of the first respondent / wife and a sum of Rs.3,000/- in favour of the second respondent / child till she attains majority, which is just and reasonable and the same does not warrant any interference.

8. Accordingly, the Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed.

02.04.2024

rap

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

To

Principal Family Judge,
Coimbatore

M.DHANDAPANI, J.

5/6



WEB COPY



Crl.R.C.No.641 of 2022

rap

Crl.R.C.No.641 of 2022
and
Crl.M.P.No.6723 of 2022

02.04.2024