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Crl.R.C.No.1099 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2024

CORAM :

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

Crl.R.C.No.1099 of 2024

T.Manikandan

... Petitioner

Vs.

Esther Rani

... Respondent

Prayer : Criminal Revision Case filed under Section 397 and 401 Cr.P.C, praying to pass an order to set aside the order dated 23.01.2024 made in M.C.No.51 of 2010 on the file of the Principal Family Judge, Coimbatore.

For Petitioner : Mr.B.Mohan

ORDER

This Criminal Revision Case is filed against the order of the learned Principal Family Judge, Coimbatore dated 23.01.2024 in M.C.No.51 of 2010.

2. Since no adverse order has been filed against the respondent, notice to the respondent is dispensed with.



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3. The case of the petitioner is that, the respondent made false allegation against the petitioner as if the marriage of the petitioner and the respondent was solemnized on 25.12.2007 at Sanganoor Madurai Veeran Temple in the presence of the office bearers of Makkal Kalai Elakiya Kalagam, based on which, the respondent filed a maintenance case u/s 125 of Cr.P.C. in M.C.No.51 of 2010 on the file of Principal Family Judge, Coimbatore, claiming a monthly maintenance of Rs.5,000/-. After adjudication, the trial court has passed the impugned order dated 23.01.2024 directing the petitioner to pay a sum of Rs.3,000/- per month to the respondent from the date of the petition till the date of the order and Rs.5,000/- p.m. as maintenance to the respondent from the date of the impugned order. Aggrieved by the same, the present revision is filed by the petitioner/husband.

4. The learned counsel appearing for the petitioner submitted that, it is true that the petitioner and the respondent are members of Makkal Kalai Elakiya Kalagam and an awareness event was conducted in the year 2007, which was mis-used by the respondent by producing photographs before the trial court as if there was a marriage in between the petitioner and the respondent. Subsequently, the respondent filed a complaint before the law



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enforcing agency and before the law enforcing agency, the petitioner admitted the marriage and agreed to take care of the respondent and subsequently, another allegation was made as if the petitioner went along with the respondent to the hospital for termination of pregnancy. All the above said records were filed before the trial court in order to harrass the petitioner. However, without any proper adjudication, the trial court ordered maintenance in favour of the respondent, which is wholly unsustainable. Accordingly, he prays for appropriate orders.

5. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. It is claimed by the respondent that the marriage between herself and the petitioner was solemnized on 25.12.2007 at Sanganoor Madurai Veeran Temple in the presence of the relatives, friends, the office bearers of Makkal Kalai Elakiya Kalagam and others and the petitioner and the respondent are members of the said political party. One Senthil Kumar who attended the said marriage was examined as P.W.2 and he clearly deposed with regard to the marriage between the petitioner and the respondent. In order



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to prove the marriage, the respondent marked the letter given by the petitioner before the hospital and law enforcing agency, marriage photos with pendrives, another letter given before the law enforcing agency, Aadhaar card and photographs of P.W.2 attending the marriage of the petitioner and respondent as Ex.P.1 to Ex.P.5. However, it is the case of the petitioner that no marriage has been solemnized in between the petitioner and the respondent and subsequently he claimed that the respondent married one Jonathan and through him, she is having one son also. In order to prove the same, the petitioner has examined the School Head Master as R.W.2 marked Ex.R.1 to Ex.R.9. However, the petitioner has not produced any proper documentary evidence to prove that the respondent has got married with another person. Unless the petitioner establishes before the competent forum that there was a second marriage pursuant to the marriage with the petitioner, it becomes the duty of the petitioner/husband to maintain the respondent/wife as ordered by the trial court.

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



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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 that his wife has sufficient means to maintain herself by her earnings or that she is living in adultery 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. There is no specific plea on the aforesaid three fronts and, therefore, necessarily the wife is entitled to maintenance u/s. 125 Cr.P.C and appreciating the above in proper perspective, the court below has granted maintenance. Therefore, this Court is not inclined to interfere with the same.

9. Accordingly, the Criminal Revision Case is dismissed.

28.06.2024

Index : Yes / No

Speaking order / Non-speaking order

NCC : Yes / No

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To

The Principal Family Judge, Coimbatore.



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M.DHANDAPANI, J.

sp

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