



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.No.760 of 2023
and Crl.M.P.No.5847 of 2023

V.R.Thirumal

... Petitioner

Vs

V.Samitha

... Respondent

PRAYER: Criminal Revision case filed under Article 397 r/w 401 of Criminal Procedure Code, to call for the records in connection with the order dated 11.10.2022 passed by the learned Family Court, Chengalpattu in FCMC. No.16 of 2019 and set aside by following this revision case.

For Petitioner : Mr.M.Govindarajan
for M/s.S.Sathish Kumar

For Respondent : Mr.U.Vinnesan

ORDER

This Criminal Revision case has been filed against the order dated 11.10.2022 passed by the learned Family Court, Chengalpattu in FCMC. No.16 of 2019.

2. The case of the respondent is that the Revision Petitioner is husband and the respondent is his wife. The marriage between the petitioner and the respondent was solemnized on 20.02.2010 at Indira Narayana Mahal, Chengalpattu as per Hindu Rites and Customs. At the time of marriage, the respondent and his family members demanded dowry for 35 sovereigns jewels, Rs.4,00,000/- cash and 500 gram silver article and other costly household articles and all of provided by the respondent parents from their hard earned money. After the marriage, the matrimonial home was set up at the respondent place and the respondent and his family member demanded more dowry. Due to difference of opinion, the respondent filed a divorce petition in HMOP.



No.95/2012 before the Subordinate Court, Chengalpattu. On 12.03.2013, the petitioner was driven out the respondent from the matrimonial home and without having any other option, she went to her parental home. Thereafter, the respondent filed a petition for restitution of conjugal rights. The learned Judge, Family Court vide common order, granted divorce and the same was challenged before this court and the same is pending. Thereafter, the respondent/wife has filed a petition against her husband under Section 125 of Cr.P.C., claiming a sum of Rs.1,00,000/- per month and a sum of Rs.50,000/- per annum for clothing and medical expenses and Rs.30,000/- towards litigation expenses. After adjudication, the learned Judge has awarded a sum of Rs.30,000/- per month as maintenance to the respondent. Challenging the said order, the petitioner herein has filed the present Revision before this Court.

3. The learned counsel appearing on behalf of the petitioner submitted that due to misunderstanding, the respondent left the matrimonial home on her own without any sufficient reason. After marriage, the respondent has never taken care of her husband and his family members. The petitioner has approached the respondent for reunion many times, but she never come forward to live with the petitioner. Hence, the petitioner has filed divorce petition on the ground of cruelty. The petitioner is not having sufficient means to maintain himself and his aged parents. Further the respondent has completed M.Sc., M.Phil., as well as she has completed Law degree and she is now



practicing as an Advocate in Kancheepuram Courts. She has sufficient means to maintain herself and she is not entitled to get maintenance from the petitioner as she only deserted her husband. Hence, the order passed by the learned Judge, Family Court, is liable to be set aside.

4. The learned counsel for the respondent submitted that the petitioner used to quarrelled with his wife and also demanded dowry. Thereafter, the petitioner driven out the respondent from the matrimonial home. The petitioner is earning sufficient amount and the respondent is unable to maintain herself. Despite having sufficient means, the petitioner is refused to maintain his wife. The respondent is practicing as an Advocate and she is earning very meager. The Family Court, after taking into consideration all the submissions made by both the sides, has awarded the maintenance amount, which is just and reasonable and it does not warrants any modification.

5. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

6. It is admitted that the respondent is the wife of the petitioner and the marriage between the petitioner and the respondent has also admitted. It is also admitted fact that they have no child. After the marriage, due to misunderstanding between the couple, the respondent left the matrimonial home and therefore, the petitioner filed divorce petition and the same was granted on the ground of cruelty. Hence, there is no possibility to both of them



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7. Such being the position, in the maintenance case, the learned Family Court Judge directed the petitioner to pay a sum of Rs.30,000/- per month to the respondent towards maintenance. If the revision petitioner is not liable to pay the maintenance, he has to prove that the respondent is having sufficient means and she voluntarily deserted her husband. There is no evidence to show that the respondent is having sufficient means to maintain her and the respondent has voluntarily deserted her husband, the petitioner has only filed a petition for divorce. Therefore, the revision petitioner is liable to pay the maintenance to the respondent under Section 125 Cr.P.C.

8. The learned counsel for the petitioner submitted that as of now, the petitioner has no employment as the respondent has caused trouble and nuisance to him while discharging his official duty. The learned counsel for the respondent submitted that she has no sufficient means to maintain herself. With the help of the friends and relatives, she has completed the B.L. Degree and now she is a practicing Advocate and she could earn very meager amount.

9. In order to strike out the balance between the petitioner and the respondent and considering the cost of living prevailing as on date, this Court is

inclined to modify the award passed by the Family court as follows:



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i. the petitioner is directed to pay a sum of Rs.15,000/- per month as maintenance from the date of the petition to till May-2024 to the respondent and pay the entire arrears to the respondent within a period of four weeks from today, less the amount, if any, already deposited.

ii. From June-2024, the petitioner is directed to continue to pay a sum of Rs.17,500/- (Rupees Seventeen thousand and five hundred only) per month as monthly maintenance to the respondent on or before 5th day of every English Calender month without any default.

10. With the above direction, the revision is disposed of. Consequently, connected miscellaneous petition is closed.

08.04.2024

Index: Yes/No

Speaking Order/Non speaking order

rli

To

The Family Court, Chengalpattu



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