



Crl.R.C.(MD).No.760 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 13.06.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.760 of 2023
and
Crl.M.P.(MD)No.11552 of 2023

Mr.Thangapandian

... Petitioner

Vs

Mrs.Ramalakshmi

... Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the order dated 27.01.2023 passed in Crl.M.P.No.135 of 2022 in M.C No.150 of 2021 on the file of the Family Court, Kanniyakumari District at Nagercoil and set aside the same and allow the above revision petition as prayed for.

For Petitioner : Mr. R.J.Karthick

For Respondent : No appearance



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ORDER

This Criminal Revision Case has been filed against order dated 27.01.2023 passed in Crl.M.P.No.135 of 2022 in M.C.No.150 of 2021, on the file of the Family Court, Kanniyakumari District at Nagercoil.

2. The marriage between the petitioner and the respondent was solemnized in the year 1970. During the wedlock, they are blessed with a son, namely, Rajadurai. The respondent had illegal contact with another man. The said issue wrecked the marriage and subsequently, both parties got divorce. Since then both the petitioner and the respondent are living separately.

3. The learned Counsel for the respondent would submit that the petitioner is having multifarious business activities and he is earning more than Rs.60,000/- per month. Hence, she seeks for the dismissal of this petition.

4. The learned Counsel for the petitioner filed a counter affidavit denying the allegations made by the respondent and stated that the divorce was a customary one and the same was registered on 04.05.1978. Hence, the respondent is not entitled to any maintenance.



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5. The learned Trial Judge after considering the evidence, granted interim maintenance of Rs.4,000/- to the respondent. In view of the disputed fact whether the petitioner has sufficient income to maintain the respondent, this Court confines itself to the question whether the order of interim maintenance is sustainable as per law. As on date, according to the respondent, the marriage is still subsisting. The petitioner/husband filed a petition with a plea that the marriage was already dissolved as per customs and the same was registered. The said fact is to be decided only during the course of the final disposal of the case. As on date, there is no legal divorce. Even if legal divorce is granted, there is no bar to claim the maintenance as per the judgment of the Hon'ble Supreme Court in the case of *Swapan Kumar Banerjee Vs. State of West Bengal* reported in **2020(19) SCC 342**.

6. In view of the circumstances, this Court is inclined to pass the following orders:

- (i) Interim maintenance granted is reduced from Rs.4,000/- to Rs.2,000/-.
- (ii) The petitioner is directed to deposit the arrears of interim maintenance amount.



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(iii) The learned Trial Judge is directed to dispose of the case within a period of two months from the date of receipt of a copy of this order.

7. Accordingly, this Criminal Revision Case is partly allowed.
Consequently, connected miscellaneous petition is closed.

13.06.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No

jbr/sbn

To

- 1.The Family Court,
Nagercoil,
Kanniyakumari District.
- 2.The Section Officer,
Criminal Records
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

jbr/sbn

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