



Crl.R.C.(MD).No.840 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD).No.840 of 2022
and
Crl.M.P.(MD).No.10542 of 2022

Mohammed Usaf

... Revision Petitioner /Petitioner/
Respondent

Vs.

1.Sarmila Doss

... 1st Respondent/Respondent/
1st Petitioner

2.Minor. Abdul Majith
(*Represented by his mother*
Sarmila Doss)

... 2nd Respondent/Respondent/
2nd Petitioner

PRAYER : Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to the Judgment in M.C No.7/2021 dated 02.02.2022 on the file of the Family Court, Ramanathapuram, Ramanathapuram District and set aside the same.



Crl.R.C.(MD).No.840 of 2022

For Petitioner : Mr.R.Babu Jaganath

For Respondents : No appearance

ORDER

The revision petitioner/husband filed this revision petition, challenging the maintenance amount awarded to the respondents in M.C.No. 7 of 2021 on the file of the learned District Judge, Family Court, Ramanathapuram.

2. The marriage between the petitioner and the first respondent was solemnized on 12.01.2014. Out of the wedlock, the second respondent was born. After birth of the child, there was some dispute between the petitioner and the first respondent and hence, they are living separately. The respondents filed a maintenance case claiming maintenance amount from the petitioner stating that the petitioner has committed domestic violence as against the first petitioner, hence, she is unable to live with him. Further, the petitioner has sufficient income and have a own house. Hence, she seeks maintenance of Rs.35,000/- to her and her child.



CrI.R.C.(MD).No.840 of 2022

WEB COPY

3. The maintenance case was contested by the petitioner herein by way of filing counter and he denied the allegations made against him. Further, he stated that the first respondent was working as teacher before and after marriage. Only due to her conduct, there is matrimonial discard and hence, he sought dismissal of the maintenance petition.

4. The learned Judge, after considering the evidence of P.W.1 namely respondent No.1, R.W.1 and R.W.2 and the documents marked as Ex.P.1 to Ex.P.4 and Ex.R.1 to Ex.R.15, granted monthly maintenance of Rs.9,000/- to the first respondent and Rs.6,000/- to the second respondent, by passing an impugned order, dated 02.02.2022. Challenging the same, the present revision Petition has been filed before this Court.

5. This Court has admitted the revision and issued notice to the respondents. Even though notice was served to the respondents, none appeared on their behalf. Hence, the name of the respondents are printed in the cause list.



CrI.R.C.(MD).No.840 of 2022

WEB COPY

6. The learned counsel for the revision petitioner/husband would submit that the award amount of Rs.9,000/- to the first respondent namely wife is unnecessary, since there is evidence available to prove that she is working as teacher. When there was admission by the first respondent about the said aspect, the award amount of Rs.9,000/- to the first respondent is not in accordance with law. He would further submit that now the first respondent is working in foreign country and she has also entered into second marriage. Hence, the petitioner seeks interference of the maintenance amount passed by the Court below in respect of the first respondent alone. Further, he has no objection to pay the maintenance amount awarded to the second respondent.

7. This Court has considered the above submissions and also perused the available records.

8. From the records, the relationship of the parties is admitted. Now the petitioner made a submission that the first respondent entered into second marriage and living in foreign country. Even arrear amount is not



CrI.R.C.(MD).No.840 of 2022

negotiated by the respondents herein, hence, she has no reason to justify that she entered into remarriage. He seeks dismissal of the maintenance amount awarded in respect of the first respondent.

9. This Court is not inclined to accept the said contention of the learned counsel for the petitioner at this stage, since there is no material produced before this Court to show that the first respondent entered into second marriage. Hence, it is open to the petitioner to file an appropriate petition under Section 128 of Cr.P.C. to prove the second marriage of the first respondent and to modify the maintenance. It is an admitted fact that the first respondent is working as teacher before and after marriage and the same is not properly considered by the Court below. Hence, this Court is inclined to reduce the maintenance amount awarded to the first respondent from Rs.9,000/- to Rs.6,000/- as monthly maintenance. Further, the maintenance amount awarded to the second respondent i.e., Rs.6,000/- by the Court below remains unaltered.



CrI.R.C.(MD).No.840 of 2022

WEB COPY

10. With the above, this Criminal Revision Petition is partly allowed. Consequently, connected Miscellaneous Petition is closed.

08.04.2024

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

Indu

To

The Family Court,
Ramanathapuram,
Ramanathapuram District.



WEB COPY



Crl.R.C.(MD).No.840 of 2022

K.K.RAMAKRISHNAN, J.

Indu

Crl.R.C.(MD).No.840 of 2022

08.04.2024