



Crl.R.C.(MD).No.783 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 13.06.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.783 of 2023
and
Crl.M.P.(MD)No.10587 of 2023

K.Sundarrajan

... Petitioner

Vs

1. M.Bavani

2. Minor.Rajavigneshwari
Minor 2nd petitioner through her mother and
guardian 1st respondent.

... Respondents

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order dated 21.02.2023 passed in M.C No.65 of 2021 on the file of the Family Court, Tirunelveli and set aside the same.

For Petitioner : Mr.T.Selvan

For Respondents : Mr.R.Aravindraaj



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ORDER

This Criminal Revision Case has been filed against order dated 21.02.2023 passed in M.C No.65 of 2021, on the file of the Family Court, Tirunelveli.

2. The marriage between the petitioner and the first respondent was solemnized on 04.02.2018. During the subsistence of marriage, the second petitioner was born to them on 28.10.2018. Thereafter, the petitioner suspected the character of the first respondent. Hence, the marriage was on the rocks and they are living separately. In the said circumstances, the respondents filed a maintenance petition claiming maintenance of Rs.10,000/- each for herself and the child.

3. The learned Counsel for the petitioner filed a counter affidavit denying the allegation made by the respondents stating that the petitioner was a coolie and he was earning only Rs.400/- per day. Hence, he seeks for dismissal of the maintenance petition.



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4. The first respondent examined herself as P.W.1 and marked Ex.P.1 to Ex.P.10. The petitioner has examined himself as R.W.1 and marked Ex.R.1.

5. The learned trial Judge after considering the entire evidence on record and also considering the relationship, granted maintenance of Rs.3,000/- to the first respondent and Rs.3,000/- to the second respondent. Totally Rs.6,000/- to the respondents.

6. The learned Counsel for the petitioner submitted that the first respondent is not entitled to claim maintenance for the reasons that she has committed adultery and the same was not considered by the learned trial Judge. He further pleaded that he is a coolie. Hence, he seeks to reduce the maintenance amount granted by the trial Judge.

7. The learned Counsel for the respondents submitted that the award is only Rs.6,000/-. Considering the present day of the cost, the said amount itself is very meager. Hence, he seeks for the confirmation of the award.



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8. The learned Counsel for the petitioner further submitted that as per the Code, there was no proof that the petitioner was living in “adultery”.

9. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

10. The first submission of the learned Counsel for the petitioner is that the first respondent committed adultery and hence, she is not entitled to claim maintenance. Except the evidence of R.W.1, there is no other evidence at all. Further, no evidence is available on record to show that she was continuously living in adultery.

11. The learned Trial Judge correctly recorded the findings that there is no evidence that the respondent committed adultery. As far as the quantum is concerned, even according to the petitioner, he is earning more than Rs.400/- per day. In such circumstances, the learned trial Judge has granted Rs.6,000/- to the respondents. Apart from that, the learned trial Judge considering the cost of living had granted Rs.6,000/- to the respondents.



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12. Hence, this Court finds not merits to entertain this petition. Accordingly, this Criminal Revision Case stands dismissed. Consequently, connected miscellaneous petition is closed.

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

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K.K.RAMAKRISHNAN, J.

jbr/sbn

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