



Crl.R.C.(MD) No.619 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CRL.R.C.(MD)No.619 of 2019

and

CRL.M.P.(MD)No.7630 of 2019

T.Subramani

: Petitioner

Vs.

1.Poonkodi

2.Suganthi

: Respondents

PRAYER: Criminal Revision Case is filed under Section 397 & 401 of Cr.P.C, seeking to set aside the order dated 04.07.2019 made in M.C.No.23 of 2018, on the file of the Family Court, Tirunelveli.

For Petitioner : Mr.S.Mahendrapathy

For Respondents : Mr.S.Murugan

ORDER

Challenging the orders passed by the Family Court, Tirunelveli, in M.C.No.23 of 2018, the present Criminal Revision Petition is filed.

2.The petitioner is the respondent in M.C.No.23 of 2018 and he was working as Havildar in the office of the Assistant Commissioner of Central



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Tax and Excise, Madurai II Division, earning a sum of Rs..37,590/- per month.

3.For the sake of convenience, the parties are referred as per their ranking in the trial Court.

4.The contention of the petitioners in M.C.No.23 of 2018 is that the marriage between the first petitioner and the respondent was solemnized on 12.09.1980 and out of the said wedlock two female children and one male child were born. The first daughter Shylaja got married. The second petitioner / unmarried daughter is residing with the first respondent.

5.The allegations against the respondent is that he demanded dowry from the first petitioner and treated her cruelly, as a result of which she had to leave the matrimonial home and subsequently the petitioner filed H.M.O.P.No.330 of 2005 before the Family Court, Madurai seeking a decree of divorce. The said petition was dismissed on 20.04.2010 by the Family Court, Madurai. In the meanwhile, since the son of the first petitioner died on 06.08.2000, she was unable to maintain herself and her unmarried daughter Suganthi, the second petitioner. She therefore filed a petition under Section 125 Cr.P.C., before the Family Court, Tirunelveli, seeking maintenance of Rs.10,000/- per month from the respondent / husband. The respondent contested the case and after full trial, the Family Court,



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Tirunelveli, allowed the said petition on 04.07.2019 by directing the respondent to pay a sum of Rs.8,000/- per month to the petitioners towards maintenance from the date of the petition ie., 17.05.2018. It was also directed that the future maintenance amount should be paid on or before 5th of every English Calender month. Aggrieved over the same, the present revision is filed.

6.Mr.S.Mahendrapathy, learned Counsel for the husband would contend that subsequent to the filing of the present petition, there was a settlement between the petitioner and the respondents, wherein it was agreed that the respondent / husband would pay a sum of Rs.10 Lakhs as one time settlement to the petitioners. Accordingly, a cheque for a sum of Rs.10 Lakhs was given to the respondents and however, it was dishonoured for the reason 'Insufficient Funds'. He would further contend that the petitioner is retired from service now and he is unable to meet out his own personal expenses from the meagre pension amount received by him.

7.Per contra, learned Counsel for the petitioners [in M.C.No.23/18] would contend that the respondent / husband is actually earning more than Rs.40,000/- per month and that the wife had to leave the matrimonial home as she was unable to bear the torture meted out to her. It is his further contention that the trial Court after analysing the entire evidence on record had come to a conclusion that the respondent / husband has to pay a sum



of Rs.4000/- each to wife and daughter and there is no good ground to set aside the orders passed by the Family Court, Tirunelveli.

8.The wife and daughter in fact filed a salary certificate issued by the office of the Assistant Commissioner of Central Tax and Central Excise, Madurai II Division, which clearly shows that the gross total monthly income of the present petitioner was Rs.37,590/-. This was issued during February, 2018. The petitioner retired from service on 03.04.2020. However, no records are filed to show the actual pension received by him. In fact, a perusal of the orders passed by the trial Judge shows that the first respondent had filed a suit in O.S.No.754 of 1999 before the Principal District Munsif, Tirunelveli seeking maintenance from the present petitioner. A decree and judgment was passed in the said suit on 03.10.2002, directing the present petitioner to pay a sum of Rs.1000/- towards maintenance. However, the petitioner did not pay any amount even from the year 1999. Learned Family Court Judge, Tirunelveli had passed a well reasoned order after analysing the oral and documentary evidence adduced on both sides and I do not find any infirmity in the orders passed by the trial Court. It is needless to say that a husband has to maintain his wife and daughter. There is nothing to show that he does not have the capacity to earn.



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9.Accordingly, this Criminal Revision Case is dismissed.
Consequently, connected miscellaneous petition is closed.

06.02.2024

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

To

1.The Family Court,
Tirunelveli.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA., J.

MR

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