



Crl.R.C.No.225 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.225 of 2024

Jamuna

... Petitioner

..VS..

Chakravarthi

... Respondent

Criminal Revision Case filed under Sections 397 read with 401 Cr.P.C., to call for the entire records in respect of the learned Judicial Magistrate, Gudiyatham in M.C.No.21 of 2017 dated 12.12.2023 and set aside the impugned order.

For Petitioner : Mr.D.Rajagopal

For Respondent : Mr.M.Rajkumar

ORDER

This Criminal Revision Petition has been filed against the order dated 12.12.2023 passed in M.C.No.21 of 2017 by the Judicial Magistrate, Gudiyatham, Vellore District.



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2. According to the petitioner, the petitioner and respondent were living together as husband and wife as per self-respect marriage. Subsequently, the respondent deserted the petitioner and that she was living separately. While that being so, the petitioner filed a maintenance case before the Judicial Magistrate, Gudiyatham in M.C.No.21 of 2017, seeking a sum of Rs.7,000/- per month as maintenance. After appreciating the entire materials, the learned Magistrate dismissed the case on the ground that the factum of the marriage is not proved. Aggrieved by the said order, the present revision petition is filed by the petitioner.

3. Learned counsel for the petitioner submitted that the petitioner and the respondent were living together as husband and wife under one roof. The respondent himself admitted before the Sub Inspector of Police, Gudiyatham that he used to visit the petitioner's house once in a month and there was a relationship between them. The said statement was marked as Ex.C3. Further, during the cross examination, the respondent himself admitted his signature found in Ex.P3 – deed of declaration of

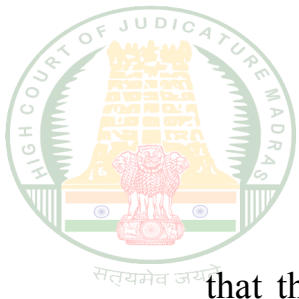


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marriage and also admitted the signatures of his parents in the said document, but the respondent denied the signature of the petitioner in the said deed. Though the respondent himself admitted that they were living together, he cannot take a different stand that Ex.P3 is a false and fabricated document. He further submitted that, in order to substantiate the relationship between the petitioner and the respondent and their marriage, on the side of the petitioner, two witnesses were examined as P.W.1 and P.W.2 and also 12 documents as Ex.P1 to Ex.P12 were marked. Further, P.W.2-Munusamy, has clearly spoken about the relationship between the petitioner and the respondent and their marriage. However, the learned Magistrate failed to consider the entire facts and simply dismissed the petition.

4. Learned counsel for the petitioner further submitted that even assuming that if the marriage between the petitioner and respondent was not proved, but the respondent himself admitted that they lived together for sometime. However, the learned Magistrate failed to consider the above aspects and simply dismissed the petition. He further submitted

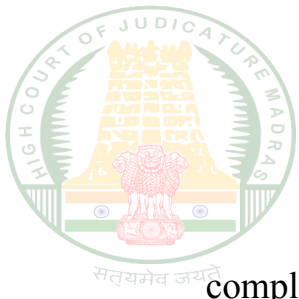


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that the Hon'ble Supreme Court also very recently held that a woman who is in live-in-relationship, is entitled to get maintenance from the man, when both are not married or the marriage of the man or woman got dissolved. Therefore, the admission made by the respondent clearly shows that they were in live-in-relationship and therefore, the order passed by the learned Magistrate is liable to be set aside.

5. Learned counsel for the respondent submitted that the petitioner has not proved the factum of marriage between the petitioner and the respondent. Though the respondent denied the signature of the petitioner in Ex.P3, but the petitioner has not taken any steps to compare the signature to prove that the signature found in Ex.P3 is the signature of the petitioner. He further submitted that the petitioner has not examined any independent witnesses to prove their marriage and their relationship. When the respondent denied the marriage, it is the duty of the petitioner to prove the factum of marriage between them, whereas the petitioner has failed to prove the same. He further submitted that, earlier the respondent filed a complaint against the petitioner, but nowhere in the said



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complaint, he has mentioned about their marriage. Furthermore, the petitioner is a married woman and having three children. Therefore, she is not entitled to get any maintenance and hence, the learned Magistrate has rightly dismissed the petition and there is no merit in the revision petition and the same is liable to be dismissed.

6. Heard both sides and perused the materials available on record.

7. On a perusal of the entire records, especially from the deposition of P.W.2, it is clear that the relationship between the petitioner and the respondent and their marriage is proved. Even assuming that if the marriage held between the petitioner and the respondent is not a valid marriage, however, during cross examination, the respondent himself admitted that he was living with the petitioner for some time and at that time, he used to visit the petitioner's house once in a month. If a man and a woman are in live-in-relationship, but if not married and live in the same house, it is called as live-in-relationship. Once the respondent himself admitted that he was living with the petitioner, the petitioner is entitled to get maintenance.



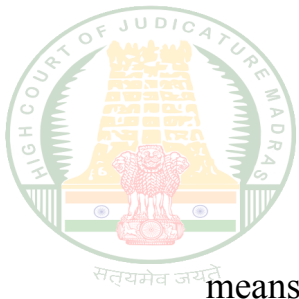
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8. Further, it is not a case of declaration of marriage or divorce on the ground of valid marriage. It is case of maintenance, which is summary in nature. The Hon'ble Supreme Court, in the case of ***Chanmuniya Vs. Virendra Kumar Singh Kushwah and Another*** reported in ***(2011) 1 SCC 141***, held that a woman who is in live-in-relationship, is entitled to get maintenance from the man, when both are not married or the marriage of the man or woman got dissolved. If the fact of live-in-relationship is proved or admitted by the parties concerned, the Court has to order for maintenance.

9. Considering the facts and circumstances, this Court finds that the order passed by the learned Magistrate is perverse. Therefore, the impugned order dated 12.12.2023 in M.C.No.21 of 2017 passed by the learned Judicial Magistrate, Gudiyatham, is liable to be set aside and accordingly set aside.

10. According to the petitioner, the respondent is earning a sum of Rs.30,000/- per month. However, the petitioner is not having sufficient



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means to maintain herself. Per contra, the learned counsel for the respondent submitted that the respondent is a tailor and earning a sum of Rs.7,000/- per month, but no proof has been produced to prove the income of the respondent.

11. Considering the facts and circumstances and also considering the cost of living and price index, the petitioner is entitled to get a sum of Rs.5,000/- per month as maintenance from the date of filing of the maintenance case. The respondent is directed to pay the said maintenance amount on or before 5th of every English Calendar Month.

12. The respondent is also directed to pay 50% of the arrears amount within a period of three months from the date of receipt of a copy of this order, and the balance arrears amount shall be paid after three months. If the respondent fails to pay the arrears amount within three months, the learned Magistrate is directed to issue warrant to the respondent.



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13. With the above observations and directions, this Criminal

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Revision Case is allowed.

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Note : Issue Order Copy on 27.03.2025

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation Case : Yes/No

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To

The Judicial Magistrate,

Gudiyatham.



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P.VELMURUGAN, J.

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