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CrI.R.C.No.1225 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.03.2025

Coram:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

CrI.R.C.No.1225 of 2024

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A.Sumathi

.. Petitioner

Vs.

P.Arivukarasu

.. Respondent

Criminal Revision Case filed under Section 397 read with Section 401 of Cr.P.C., 1973, to call for the records of the impugned judgment passed by the learned Family Judge, Salem in M.C.No.34 of 2023, dated 24.06.2024 and set aside the same.

For petitioner : Mr.C.K.M.Appaji
For Mr.R.Manoharan

For respondent: Mr.E.Kannadasan



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ORDER

The present Criminal Revision Petition is directed against the order passed by the learned Judge, Family Court, Salem, in M.C.No. 30 of 2023 (renumbered from M.C.No.4 of 2015 on transfer from the Judicial Magistrate No.II, Salem), by which the petition filed by the petitioner under Section 125 Cr.P.C. seeking maintenance was dismissed.

2. The case of the petitioner is that she is the legally wedded wife of the respondent. The marital relationship is not in dispute. It is her case that after being deserted by the respondent, she lived under the care of her maternal uncle for a considerable period of time. She alleges that the respondent entered into a second marriage and failed to provide any support to her and the child born from their wedlock. It is also her grievance that, though she did not initiate proceedings for maintenance for many years, she had no independent source of income and was compelled to file the petition under Section 125 Cr.P.C.

3. The learned counsel for the petitioner contended that the learned Judge, Family Court, failed to properly appreciate the fact that the petitioner had no independent means of livelihood, and that the delay in approaching the Court could not be a valid ground to reject her claim. It was further submitted that the alleged



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one-time monetary payment or the Fixed Deposit created in favour of the son does not absolve the husband of his statutory obligation to maintain his wife. It was also submitted that the husband had entered into a second marriage and had deserted the petitioner. The petitioner had lodged a complaint before the police, and in order to secure the withdrawal of the said complaint, the respondent made the payment in question. Therefore, such payment cannot be treated as a settlement of the petitioner's claim for maintenance.

4. On the other hand, the learned counsel for the respondent submitted that the petitioner voluntarily left the matrimonial home, and that both parties had earlier initiated divorce proceedings while the petition filed by the petitioner was dismissed, the respondent's petition ended in a compromise. As part of that mutual settlement, the respondent paid Rs.1,00,000/- to the petitioner and deposited Rs.2,00,000/- in the name of their son. The petitioner accepted the terms and signed the compromise agreement. It was further submitted that the son had by then attained majority, completed his education, and was working as an Assistant Manager at the State Bank of India, and therefore no maintenance could be claimed for him. It was also pointed out that the petitioner has failed to prove that she is presently unable to maintain herself.



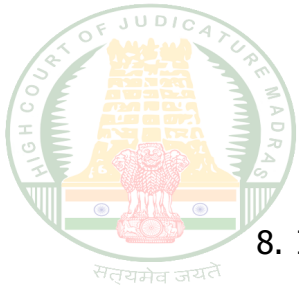
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5. Heard the learned counsel on either side and perused the materials available on record.

6. The relationship between the petitioner and the respondent as husband and wife is not in dispute. It is also undisputed that the parties have been living separately for more than two decades. The admitted facts further show that a sum of Rs.1,00,000/- was paid to the petitioner, and another sum of Rs. 2,00,000/- was deposited in the name of the son on 29.08.1999. It is also an admitted fact that the petitioner did not initiate any proceedings for maintenance and filed the maintenance petition only after a lapse of 16 years from the date of separation.

7. The learned Judge, Family Court, after considering the entire facts and circumstances of the case, found that the petitioner had failed to establish that she was unable to maintain herself. There was no material on record to show that she was destitute or without any means of livelihood. It is also admitted that the petitioner was under the care and custody of her maternal uncle, and it was only after his death that she filed the petition for maintenance. Furthermore, the monetary settlement already arrived at, and the absence of any petition filed for over a decade, were all rightly taken into consideration by the learned Judge to conclude that the petition lacked merit. It is also now stated that the son is employed as Assistant Manager in the State Bank of India.



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8. It is well settled that Section 125 Cr.P.C. is a summary remedy meant to prevent destitution and vagrancy. However, the remedy is available only to a person who is unable to maintain themselves. The petitioner's long silence, unexplained delay, and failure to place any evidence regarding her inability to maintain herself, coupled with the fact that she had accepted a one-time settlement, clearly disentitle her to any relief under Section 125 Cr.P.C. in the present circumstances. This Court finds no perversity or illegality in the order passed by the learned Judge, Family Court. The reasoning is well-founded, and no interference is called for in the exercise of revisional jurisdiction.

9. Accordingly, the Criminal Revision Petition is dismissed. No costs.

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Neutral Citation Case : Yes/No

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