



CrI.R.C. No.853 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2025

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal Revision No.853 of 2021

Janaki

.. Petitioner

Versus

Kanagaraj

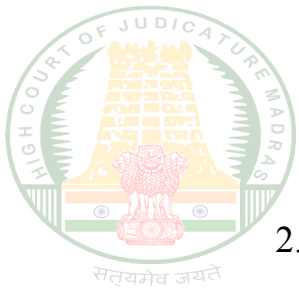
.. Respondent

Criminal Revision Case is filed under Section 397 r/w. 401 of The Code of Criminal Procedure, praying to set aside the Order dated 13.10.2021 passed in Maintenance Case No. 57 of 2019 on the file of the learned Judge, Family Court, Cuddalore.

For Petitioner	:	Mr. D. Baskar
For Respondent	:	Mr. P. Suresh Babu

ORDER

This Criminal Revision Case had been filed to set aside the Order dated 13.10.2021 passed in M.C.No.57 of 2019 on the file of the learned Judge, Family Court, Cuddalore.



2. The brief facts, which are necessary for disposal of this Criminal

Revision Case, are as follows:-

2.1. The marriage between the Petitioner and the Respondent was solemnised at TVMS Thirumana Mahal, Cuddalore on 06.04.2011. The Petitioner studied only upto 6th Standard and she lost her father at young age. Therefore, it is stated that she was brought up by her mother and her elder brother. Similarly, the Respondent studied upto 8th Standard. At the time of the marriage, the Respondent's family represented that they had 10 acres of agricultural land and two brick built houses. It was also stated that the Respondent was the owner of TATA ACE load vehicle and earning more than Rs.20,000/- per month. According to the Petitioner, the Respondent's family demanded dowry of 50 sovereigns of gold to the Petitioner, 10 sovereigns of gold to the Respondent, household articles worth Rs.5 lakhs and Rs.2 lakhs for purchase of two wheeler. Even though the mother of the Petitioner and her brother expressed their inability, ultimately, they agreed to provide 40 sovereigns of gold to the Petitioner, 10 sovereigns to the Respondent, household articles worth Rs.3 lakhs, Rs.50,000/- towards dress and Rs.1 lakh for purchase of two wheeler. According to the Petitioner, her mother and brother fulfilled all the demands made by the Respondent and his family by selling one



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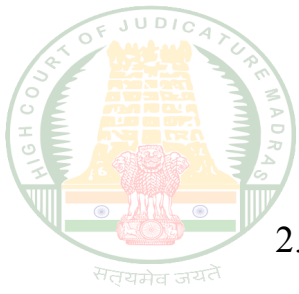
of the properties of their family and by borrowing huge amount at exorbitant rate of interest. According to the Petitioner, on the Nuptial night, it was represented by the Respondent that physical relationship can be had only after fulfilling a vow to God and therefore, during nuptial night, the marriage was not consummated. After a week, the Respondent took the Petitioner to his house and he used to go out during nights saying that he has to ply the vehicle. Further, the Respondent used to go out during nights and return only in the Morning and sleep throughout the day and in this fashion the marriage was not consummated. When this was informed to the mother of the Petitioner, she came and caused an enquiry with the members of the Respondent's family during which they have created an ugly scene. Subsequently, the Petitioner came to know that the Respondent is impotent and that is the reason why, he indulged in such tactics. Thus, inspite of marriage, the Petitioner is living the life of a spinster. Even though the marriage of the Petitioner was performed at a cost of Rs.20,00,000/- the marriage failed, which had resulted in mental illness and suffering for the Petitioner. Ultimately, the Petitioner was driven out from the matrimonial home in June 2015. For the past four years, till the filing of the Petition, the Petitioner had been living with her mother and brother. The Petitioner reserves the right to take separate action regarding her jewel and other articles. It is stated that the Petitioner has no means to



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maintain herself. Therefore, the Respondent is duty-bound to pay maintenance to her. The Respondent owns 10 acres of land, Tractor, Tata ACE vehicle and is earning substantially. The Respondent has sufficient means to pay the maintenance amount to the Petitioner. The Petitioner therefore claimed Rs.25,000/- per month towards maintenance.

2.2. On notice, the Respondent filed a counter denying the averments in the Petition filed for maintenance. The Respondent denied having demanded dowry in any form. The Respondent also stated that he is in receipt of salary of Rs.20,000/- only. The Respondent also denied the allegation that he is impotent and is not fit to consummate the marriage. The Petitioner wanted the Respondent to set up a separate house and it was refused by the Respondent as he has to take care of his aged parents. Therefore, the Petitioner walked out of the matrimonial home and living with her brother and mother. The Petitioner voluntarily left the matrimonial home on her own volition and living separately without any acceptable cause. If a married woman leaves the matrimonial home and living separately on her own, then she is not entitled to claim maintenance. The petition for maintenance lacks merit and it has to be dismissed.



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2.3. The learned Judge, Family Court, Cuddalore, conducted enquiry in the Maintenance Case. In the enquiry, the Petitioner examined herself as P.W-1 and marked 3 documents as Ex.P-1 to Ex.P-3. The Respondent examined himself as R.W-1 and one Uthiravel was examined as R.W-2. However, no document was marked on the side of the Respondent.

2.4. On appreciation of evidence, both oral and documentary, the learned Judge, Family Court, Cuddalore, concluded that the wife has not proved that the Respondent has 10 Acres of land and two houses and a vehicle. The claim of the Petitioner/wife that the husband is resourceful enough to pay maintenance to her was therefore rejected. It was also concluded that the Respondent is working as a driver in a cargo lorry and not a plot owner or doing any logistic business. At the same time, the learned Judge observed that the Respondent/husband has not filed any Petition seeking restitution of conjugal rights. He has not subjected himself to a medical examination to disprove the claim of the Petitioner that he is impotent. Under such circumstances, the Respondent/husband is duty-bound to maintain his wife. Since the income of the Respondent is Rs.15,000/- approximately, the learned Judge directed the Respondent to pay Rs.3,500/- per month as maintenance to the Petitioner.



WEB COPY 2.5. Aggrieved by the same, the Petitioner/wife had filed this Criminal Revision Case seeking enhancement.

3. The learned Counsel for the Revision Petitioner submitted that the Respondent is the owner of agricultural land measuring 10 Acres and two houses. He also owns Tata ACE mini Lorry and engaged in logistics business. The Respondent, therefore, has the wherewithal to pay sufficient amount to the Petitioner towards maintenance, but he failed to maintain her. Therefore, she was forced to file the Maintenance Case No.57 of 2019 praying to direct the Respondent to pay Rs.25,000/- per month as maintenance. However, the learned Judge, Family Court, Cuddalore, directed payment of Rs.3,500/- per month only as maintenance, which is very meagre and not in consonance with the earnings of the Respondent. The meagre amount of Rs.3,500/- will be grossly insufficient for the Petitioner to fulfil her basic necessities, which was not taken note of by the Court below. Therefore, it is submitted that the Order passed by the learned Judge, Family Court, Cuddalore, is perverse and the same needs interference by this Court by enhancing the maintenance amount.

4. On the other hand, the learned Counsel for the Respondent



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submitted that the order of the learned Judge, Family Court, Cuddalore is a well-reasoned order and it does not warrant any interference by this Court.

Also, he submitted that the Petitioner is engaged in tailoring work and she is earning her livelihood through such work. The learned Judge, Family Court, Cuddalore, on proper appreciation of evidence, arrived at a conclusion that the monthly income of the Respondent is approximately Rs.15,000/- and directed him to pay Rs.3,500/- per month to the Petitioner towards maintenance. Such a direction issued by the learned Judge, Family Court, Cuddalore, is proper and it does not warrant interference by this Court under Section 397 r/w. 401 of Cr.P.C. Accordingly, the learned Counsel for the Respondent prayed for dismissal of the present Criminal Revision Case.

Point for consideration:

Whether the order dated 13.10.2021 passed in M.C. No. 57 of 2019 by the learned Judge, Family Court, Cuddalore, is to be set aside as perverse which needs any modification?

5. Heard Mr. D. Baskar, learned Counsel for the Revision Petitioner and Mr. P. Suresh Babu, learned Counsel for the Respondent. Perused the order passed by the learned Judge, Family Court, Cuddalore and the original records.

<https://www.mhc.tn.gov.in/judis>



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On perusal of the order passed by the learned Judge, Family Court, Cuddalore, it is found that the Petitioner has not filed any document to prove her claim that the Respondent owns 10 Acres of agricultural land, two houses and a TATA ACE cargo lorry in his name. Also, the Petitioner had not filed any documents as proof to show that the Respondent has the wherewithal to pay Rs.25,000/- per month to her towards maintenance. In the absence of such documents, the learned Judge, Family Court, Cuddalore, concluded that as a Driver, the Respondent can approximately earn Rs.15,000/- per month, out of which, a sum of Rs.3,500/- was directed to be paid as maintenance to the Petitioner. Such a direction issued by the Family Court, Cuddalore, is on the basis of documents made available.

7. The learned Counsel for the Respondent submitted that the Petitioner-wife is earning her livelihood through tailoring work. Here again, the Respondent has not filed any document to substantiate that the Petitioner is working as tailor and earning. The learned Judge, Family Court, Cuddalore, had taken a judicial notice of the fact that Drivers of cargo movers vehicles can earn approximately Rs.15,000/- per month. Even if it is Rs.15,000/-, the Petitioner/wife ought to have been granted Rs.5,000/- per month as



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WEB C 2019 maintenance. On the other hand, the Maintenance Case was filed in the year 2019 and the earnings of the Respondent shall not remain the same and he would earn at least Rs.20,000/- per month. Therefore, the sum of Rs.3,500/- ordered as maintenance is found to be too meagre considering the prevailing cost of living. Accordingly, the award of Rs.3,500/- directed to be paid by the Respondent to the Petitioner is found to be too meagre. Therefore, a sum of Rs.7,000/- per month is ordered as maintenance which the Respondent shall pay to the Petitioner from the date of filing the present Criminal Revision Case on 15.11.2021, which would meet the ends of justice.

8. In the light of the above discussion, the point for consideration is answered in favour of the Revision Petitioner and against the Respondent. The order, dated 13.10.2021 passed in M.C. No. 57 of 2019 by the learned Judge, Family Court, Cuddalore, granting meagre amount of Rs.3,500/- per month as maintenance needs to be modified.

In the result, this ***Criminal Revision Case is allowed.*** The maintenance amount of Rs.3,500/- granted by the learned Judge, Family Court, Cuddalore is modified and the Respondent is directed to pay a sum of Rs.7,000/- per month to the Petitioner from the date of filing of the present Criminal Revision Case



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on 15.11.2021. The Respondent/husband is directed to pay the arrears of maintenance amount, being the difference of Rs.3,500/- to Rs.7,000/- viz., Rs.3,500/- per month to the Petitioner within a period of three months from the date of receipt of a copy of this order and continue to pay the same amount to the Petitioner.

26.03.2025

dh

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-speaking Order



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To

1. The Judge,
Family Court,
Cuddalore.
2. The Section Officer,
Criminal Section,
High Court Madras.



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SATHI KUMAR SUKUMARA KURUP, J

dh

Order made in
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26.03.2025