

(2007) 03 MAD CK 0321

In the Madras High Court

Case No : Criminal R.C. No. 193 of 2005

K. Karunakaran

APPELLANT

Vs

Mrs. K. Uma, K. Maheswari, K. Prem Kumar and K. Dinesh
Kumar

RESPONDENT

Date of Decision : 27-03-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2007) 03 MAD CK 0321

Hon'ble Judges : A.C. Arumugaperumal Adityan, J

Bench : Single Bench

Advocate : T.R. Ravi, for the Appellant; K. Sugumaran, for R1 to R4, for the Respondent

Final Decision : Dismissed

Judgement

A.C. Arumugaperumal Adityan, J.—This Revision has been preferred against order passed in M.C. No. 389/2004 on the file of the II Additional Principal Judge, Family Court, Chennai.

2. The petitioners/respondents herein who are admittedly wife and children of the respondent/revision petitioner herein respectively. The 1st petitioner is the wife and the petitioners 2 to 4 are the children. They have preferred a petition u/s 125 of Cr.P.C., for maintainance. The first petitioner asked for Rs.2000/- per month and for other minors petitioners 2 to 4, she has asked for Rs.1,500/- each per month. In the petition the first petitioner would say that the marriage between her (1st petitioner) and the respondent/revision petitioner herein was conducted on 3.7.1985 at Sri Muthallaman Kovil, Thiruppauliyur, Cuddalore, as per the Hindu rites and customs. After the marriage she gave birth to one daughter and two sons who are now aged 16, 14 and 12 respectively. According to the 1st petitioner, the respondent/revision petitioner herein is a drunkard and after consuming liquor he use to bet her and he failed to maintain the family. She would further allege that the respondent/revision petitioner herein had gone to

the extent of compelling her to indulge in prostitution and that from the year 2001 the respondent has neglected to maintain the petitioners who are now living separately. According to the petitioners, the respondent is an auto driver owning an auto bearing No. T.N.04-L 1885 and he is earning Rs.10,000/- per month.

3. The respondent/revision petitioner herein in his counter would contend that he is a dutiful husband and he is maintaining the 1st petitioner/wife and the other petitioners/children properly. He would deny that he has deserted the petitioners. He would state that he is willing to live with the 1st petitioner and that the auto bearing No. T. No. 04-L 1885 belongs to one Thambiran and that he is earning only Rs.50/- per month from the auto.

4. Before the trial Court, the 1st petitioner has examined herself as P.W.1 and exhibited Ex.P.1 to P.4. The respondent has examined himself as R.W.1 and marked Ex.R.1. After going through the evidence both oral and documentary placed by either side before the trial Court, the learned trial judge has accepted the contentions of the petitioners and awarded Rs.800/- each per month towards maintenance. Aggrieved by the findings of the learned trial judge, the husband/respondent has preferred this revision petition.

5. Now the point for determination in this revision is whether the award of maintenance in favour of the petitioners is exorbitant to warrant interference from this Court?

6. The Point:- Admittedly the 1st petitioner in M.C. No. 389/2004 is the wife of the respondent/revision petitioner herein and the petitioners 2 to 4 are the children born to the 1st petitioner-Uma and the respondent-Karunakaran. It is the case of the petitioners that the respondent in the year 2001, had driven out the petitioners from the matrimonial home and they were living separately. As P.W.1 the wife-Uma would depose that she is eking her livelihood by doing menial work in the house and that the daughter has already stopped her education and the other two sons are going to school. According to her, the respondent-her husband Karunakaran is owning an auto bearing No. T. No. 04-L 1885 and earning not less than Rs.10,000/- per month through the said auto. On the other hand the respondent/husband would contend that the said auto does not belong to him but it belongs to one Thambiran and to substantiate this he had produced Ex.R.1 and that in his evidence, respondent/husband would admit that he has purchased the said auto from Thambiran by paying money on installments. It is in evidence that he(husband) is owning a housing board house. The learned Counsel for the revision petitioner/respondent(husband) would say that after the complaint preferred by the 1st petitioner/wife at the intervention of the police the petitioners have been housed in the said house now. But absolutely there is no evidence with regard to that. There is no evidence let in by the respondent-Karunakaran, the revision petitioner herein, to show that the 1st petitioner is employed in an export company and earning sufficient income to maintain the family. Only under such circumstances, the learned trial judge has

considered that atleast Rs.800/- per month per head is absolutely necessary to make both ends meet. The 1st petitioner/wife has to educate her children besides providing their wearing apparels and to meet medical expenses and other sundry expenses. In todays cost of living, Rs.800/- per month to an individual cannot be said to be more than sufficient to meet the day to day expenses. Even though the respondent/husband would contend that he is always willing to take back his wife and children and to lead a joint family, admittedly so far he has not filed any petition for restitution of conjugal rights. Even the respondent/husband is not prepared to even meet the educational expenses of the children. The 1st petitioner/wife would allege that the respondent/husband has made an attempt to push her in flesh trade. Under such circumstances, I do not find any reason to interfere with the orders of the learned trial judge in fixing the maintenance as Rs.800/- per month for each of the petitioners. Point is answered accordingly.

6. In the result, the revision petition is dismissed confirming the orders of the trial Court in M.C. No. 389 of 2004 on the file of the II Additional Principal Judge, Family Court, Chennai, with costs through out.