

In Re: Kandasami Chetty

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Court : Chennai

Decided On : Jul-22-1925

Reported in : AIR1926Mad346; 92Ind.Cas.862; (1926)50MLJ44

Judge : Jackson, J.

Appellant : In Re: Kandasami Chetty

Judgement :

ORDER

Jackson, J.

1. Petitioner seeks to revise tire order of the Sub-Divisional Magistrate, Pollachi, under Section 488 of the Cr.P.C., by which he is directed to pay rupees ten (Rs. 10) per mensem as maintenance to his first wife. The order contains no clear issues or findings and the Magistrate should understand that vituperation adds nothing to the force of a judicial pronouncement.

2. Apparently upon the evidence of counter-petitioner and her three witnesses, the Magistrate finds that she was driven out of her home, not allowed to come back, and refused maintenance. He rejects the defence evidence to the contrary because He thinks the plea of enmity 'rather mamool' meaning presumably that it is a false plea often advanced. He finds that though slightly lame the counter-petitioner is able to work and accordingly he orders rupees ten (Rs. 10) per mensem, not an extravagant rate: for people in decent circumstances. He also

hopes that the family will assist the husband to find the money.

3. Of course, maintenance can only be levied from the husband, and in expressing this hope the Magistrate passes no order against the husband's family. The point most strenuously pressed by petitioner is that since the husband is only 19 years old 'and unemployed, he has no means to support his wife. I do not take 'means' in Section 488 of the Cr.P.C., to signify only visible means such as real property or definite employment, if a man is healthy and able bodied he must be taken to have the means to support his wife. I, therefore, find no absolute ground for interference but I agree with the petitioner that this order is not altogether satisfactory. It should have been more clearly set forth whether the wife has merely left the house upon the arrival of the second wife has been actually driven out. If petitioner's remedy were concluded, there might be reason for re-opening the matter. But it is obvious from the Statute itself that persons aggrieved by these magisterial orders are expected to take their case to the Civil Courts. Section 488 of the Cr.P.C., provides a speedy remedy and safeguards a deserted wife or child from starvation; but when other issues are raised, they should be settled in the Civil Courts, and nothing is to be gained by protracted litigation in the Criminal Courts. Doubtless it is with that intention, that no appeal has been allowed from orders under Section 488.

4. Therefore, I decline to interfere and admission is refused.

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