

Madras High Court

Sellammal vs Muthuvira Muthirian on 29 April, 1943

Equivalent citations: (1943) 2 MLJ 150

Author: K Aiyar

ORDER Kuppuswami Aiyar, J.

1. This is a reference by the learned District Magistrate of Trichinopoly for setting aside the order of the Sub-Divisional Magistrate of Musiri dismissing a petition by a wife for maintenance. Her case was that she was beaten and driven out of the house and she refused to share bed with her husband after marriage in view of the fact that he was suffering from venereal disease and she did not want to get infected herself. In Court, the husband offered to take her and live with her and the learned Sub-Divisional Magistrate dismissed her petition.

2. As pointed out by the learned District Magistrate it is the duty of the Court to find whether there was sufficient justification for the wife not living with the husband and claiming maintenance. It is certainly cruel on the part of a husband who has got venereal disease to insist upon his wife sharing bed with him, and if this is cruelty, she will be entitled to maintenance. The order of the Sub-Divisional Magistrate dismissing the petition is set aside. The petition will be restored to file and disposed of by the Sub-Divisional Magistrate of Musiri or by such other Magistrate as the District Magistrate may think it necessary or proper to transfer it after giving an opportunity to both sides to let in necessary evidence.