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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Cr1.R.C.(MD)NO.141 of 2015

D.Amaladoss

.. Revision Petitioner

Vs.

J.Gabrilla

.. Respondent

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., to call for the records relating to the order passed in M.C.No.81 of 2013 dated 19.02.2015 on the file of the Family Court, Madurai and set aside the same and allow the criminal revision petition.

For Petitioner

:: Mr.V.Sasikumar

For Respondent

:: Mr.So.Paramasivam

ORDER

The petitioner is the husband of the respondent. The respondent filed M.C.No.81 of 2013 on the file of the family Court, Madurai, praying for maintenance at the rate of Rs.15,000/- per month. The trial Court, by order dated 19.02.2015 directed the petitioner to pay a sum of Rs.4,000/- per month. Challenging the said quantum, the petitioner is before this Court with this petition.

2. I have heard the learned counsel on either side and also perused the records carefully.

3. The learned counsel for the petitioner would submit that the petitioner is working as an employee in the Southern Railway and his monthly income, after due deduction, is only Rs.16,000/-. The learned counsel would further submit that the respondent is a graduate having B.Sc., B.Ed., degree to her credit and she is working in a private school. Thus, according to the petitioner, the respondent is not entitled for maintenance.

4. The learned counsel for the respondent would submit that the petitioner is earning a sum of Rs.25,000/- per month, which is evidenced from Ex.R.19. He would further submit that



though it is true that the respondent was working in a private school prior to her marriage and after the marriage, she is not working anywhere and she is not earning any income. The learned counsel for the respondent would submit that there is no evidence at all to prove that the respondent is earning. Thus, according to the learned counsel for the respondent, the revision deserves to be dismissed.

5. I have considered the above submissions.

6. As per Ex.R19, the petitioner is an employee of the Southern Railway and is earning a sum of Rs.25,000/- per month. Though it may be true that after the deductions, his home taking salary is only Rs.16,000/-. The deductions cannot be taken as income. Some of the deductions may be towards his savings or towards loan. At any rate, for a person, who is earning a sum of Rs.25,000/- and having the home taking salary of Rs.16,000/-, paying a sum of Rs.4,000/- to the wife will not be a hurdle. Secondly, though it is alleged that the respondent is working in a private school, there is no proof for the same. The respondent has categorically stated in her evidence that prior to her marriage, she was working in a school, but now she is not working anywhere. In the absence of any evidence, it cannot be presumed that the respondent is earning and is capable of maintaining herself.

7. In view of all the above, I am of the considered view that the trial Court was right in directing the petitioner to pay Rs.4,000/- towards the maintenance of the respondent, which is very reasonable, which does not require any interference at the hands of this Court.

8. In the result, the criminal Revision Petition is dismissed. Consequently connected Miscellaneous Petition is closed.

9. It is brought to my notice that as per the interim direction issued by this Court, a sum of Rs.30,000/- has been deposited by the petitioner. That amount shall be withdrawn by the respondent without reference to this Court and the same shall be adjusted towards the arrears. If any other amount has been paid to the respondent as per the order of the trial Court, the same shall also be adjusted duly.

Sd/-

Assistant Registrar(Per Admn)

/True Copy/



To

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The Judge, Family Court, Madurai.

+1cc to MR. V.Sasikumar, Advocate Sr.No.29575

+1cc to MR.So.Paramasivam, Advocate Sr.No.29484

rr

AA/22.06.2015/3p-4c/

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