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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

and

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

C.M.A. (MD) No. 50 of 2016

and

C.M.P. (MD) No. 921 of 2016

S.O.R. Elangovan

... Appellant/Respondent/
Petitioner

Vs.

Sumathi Elangovan

... Respondent/Petitioner/
Respondent

PRAYER: Civil Revision Petition is filed under Section 25 of Hindu Marriage Act, 1955 to set aside the fair order and decretal order dated 27.11.2015 made in I.A.No.613 of 2014 in H.M.O.P.No.213 of 2014 on the file of the Family Court Judge, Madurai.

For Appellant

: Mr. G.R. Swaminathan
for Mr. T. Antony Arul Raj

For Respondent

: Mr. T.S.R. Venkatramana

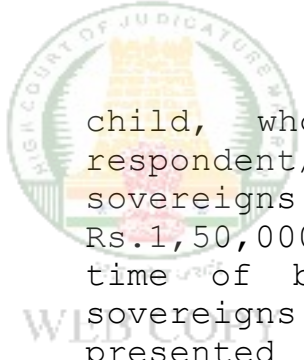
JUDGMENT

(Judgment of this Court was delivered by M. SATHYANARAYANAN, J.)

By consent this Civil Miscellaneous Appeal is taken up for final disposal.

2. The petitioner in H.M.O.P.No.213 of 2014 pending on the file of the Family Court, Madurai, aggrieved by the order dated 27.11.2015 in I.A.No.613 of 2014 in H.M.O.P.No.213 of 2014, in and by which, the trial Court has awarded a sum of Rs.30,000/-p.m. (Rupees Thirty Thousand only) towards interim maintenance for the respondent/wife, filed this appeal.

3. A perusal of the materials available on record would disclose many other things. The petitioner/husband married the respondent on 25.01.2006 and out of wedlock, begotten a female



child, who is now aged about 6 years. According to the respondent/wife at the time of marriage, she was given 130 sovereigns of gold jewels and also house hold articles worth about Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) and at the time of birth of the child also, her parents had given 25 sovereigns of gold jewels and during the other ceremonies, she was presented gold jewels by her parents. The respondent/wife would state that she was studying M.Sc., (I.T), but after marriage, she discontinued her studies.

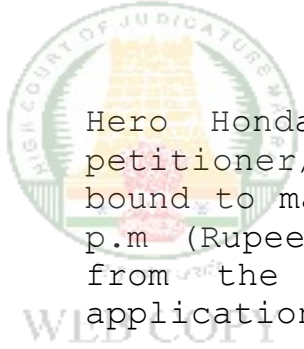
4. It is a specific case of the respondent/wife that her husband/petitioner is a lawyer by qualification and also a businessman by profession and is owning agricultural lands and he is the son of Late S.O.Ramasamy, Ex-Municipal Chairman of Usilampatty, who is a well known figure in that locality and his family also running buses in that area and they owned number of shopping complex and now he is also starting two wheeler agency viz., Hero Honda Agency at Usilampatti with an investment of several crores.

5. The respondent/wife also expressed her grievance that without any rhyme or reason, she was driven out of her matrimonial home and at present, she is residing with her parents and since she has no other source of income for maintaining herself and for her day to day needs, pending disposal of the petition filed by the petitioner/husband, she prayed for a sum of Rs.1,00,000/-p.m. (Rupees One Lakh only) for food, clothing, shelter and other expenses by filing an interlocutory application in I.A.No.613 of 2014 in H.M.O.P.No.213 of 2014.

6. The petitioner in H.M.O.P.No.213 of 2014, as respondent in the said interlocutory application filed his counter affidavit denying all the averments and would submit that the petitioner is his wife and being an educated lady, she is able to maintain herself and as such she is not entitled to claim any maintenance amount and in any event, a sum of Rs.1,00,000/-p.m. (Rupees One Lakh Only), by way of maintenance is highly exemplary. Further he added that he is not owning any agricultural land and he is not receiving any income on that. Though he admitted that he started a two wheeler agency, he would submit that he has not yet gained any income in that business and hence, he prays for dismissal of the petition.

7. During the course of enquiry, no oral evidence was let in and no document has been marked.

8. The family Court, by taking into consideration the averments made in the petition and counter affidavit, found that the respondent's husband is hailing from a reputed family and also doing variety of business including Transport, Explosives, Oil, Gas and other Agencies and he also admits that he recently opened



Hero Honda Agency. The trial Court further found that the petitioner/wife has no other source of income and as such, he is bound to maintain his wife and hence, awarded a sum of Rs.30,000/-p.m (Rupees Thirty Thousand Only) by way of interim maintenance from the date of petition till the disposal of the main application.

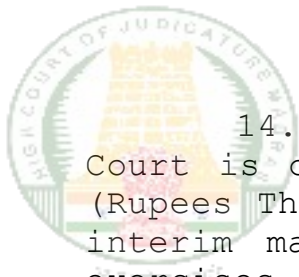
9. Challenging the legality of the said impugned order, dated 27.11.2015, the present Civil Miscellaneous Appeal is filed by the appellant/husband.

10. Mr.G.R.Swaminathan, learned Counsel appearing for the appellant/husband would vehemently contend that admittedly the petitioner/wife did not enter into the witness box and has not marked any document and merely based on the averments made in the petition, an exemplary sum of Rs.30,000/-p.m.(Rupees Thirty Thousand Only) is ordered to be paid by the appellant/husband to the respondent/wife. In any event it is very much on the higher side and hence, prays for reduction of the same.

11. Per contra, Mr.T.S.R.Venkatramana, learned Counsel appearing for the respondent/wife would contend that the fact that the appellant herein is hailing from a reputed family is not in dispute and he is also doing various business including Transport, Explosives, Oil, Gas and other Agencies and the appellant also admits that he has recently started a two wheeler agency and as such, a sum of Rs.30,000/-p.m. (Rupees Thirty Thousand Only) awarded by the trial Court, considering the status of the appellant, is very much on the lower side and hence, prays for dismissal of this appeal with costs.

12. This Court has paid it's best attention to the rival submissions and also perused the materials placed before this Court.

13. The marital relationship between the appellant and the respondent is admitted and the appellant/husband herein has filed a petition for divorce in H.M.O.P.No.213 of 2014 alleging cruelty and the respondent/wife herein has filed her counter affidavit denying the averments. It is not in dispute that the appellant is hailing from a reputed family and he is the son of Late S.O.Ramasamy, Ex-Municipal Chairman of Usilampatty and it is a specific case of the respondent that the appellant's family owns very many business and the appellant herein also recently started Hero Honda Agency at Usilampatty by investing several crores. It is also the case of the respondent/wife that she was pursuing her M.Sc. (IT), but on account of her marriage, she discontinued her service on the date of filing divorce petition, she has no occupation and she is fully supported by her parents.



14. In the light of the above facts and circumstances, this Court is of the considered opinion that a sum of Rs.30,000/-p.m. (Rupees Thirty Thousand Only) awarded by the trial Court by way of interim maintenance is just and reasonable and the trial Court exercises its discretion properly. Hence, there is no infirmity or error apparent on the impugned order.

15. In the light of the above, this Civil Miscellaneous Appeal is dismissed, confirming the fair and decreetal order dated 27.11.2015 made in I.A.No.613 of 2014 in H.M.O.P.No.213 of 2014, on the file of the Family Court Judge, Madurai. However in the facts and circumstances of the case, there shall be no order as to costs. Consequently, the connected Civil Miscellaneous Petition is also dismissed. In the light of the fact that the counter affidavit has been filed and that the H.M.O.P. is of the year 2014, the Family Court is directed to accord priority and take final disposal of the matter as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this judgment. Both parties are directed to extend their maximum co-operation for early disposal.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To
The Family Court Judge, Madurai.

+1 cc to M/S.T.S.R.VENKAT RAMANA, Advocate Sr.No.64360

+1 cc to M/S.T.ANTONY ARULRAJ, Advocate SR.No.64609

C.M.A. (MD) No.50 of 2016
and
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