

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.01.2017

Coram

The Honourable MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.PD.No.3267 of 2016

G.Saravanakumar

.. Petitioner

vs

M.Amala

.. Respondent

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decreetal order dated 21.04.2016 passed by the learned Subordinate Judge, Poonamallee in I.A.No.190 of 2015 in HMOP No.274 of 2014.

For Petitioner : Mr.M.Lenin Samuel

For Respondent : Mr.E.J.Ayyappan

ORDER

The petitioner/husband, being aggrieved by the order passed by the court below in directing him to pay a sum of Rs.20,000/- per month as maintenance to the respondent/wife and his daughter, has filed this revision.

2. The case of the petitioner is that, the respondent herein has filed HMOP No.274 of 2014 under Section 13(1)(ia) of the Hindu Marriage Act, 1955 before the court below seeking divorce on the ground of cruelty. Pending HMOP, she has also filed an interim application under Section 24 of the Act, seeking interim maintenance in a sum of Rs.20,000/- per month each for her and her child; a sum of Rs.2,00,000/- per annum towards the education cost for the child and a sum of Rs.50,000/- towards the legal expenses. The court below allowed the said petition, however, granting only a sum of Rs.20,000/- per month as an interim maintenance towards the respondent/wife and her child. Challenging the same, the present revision is filed.

3. The learned counsel appearing for the petitioner submitted that the court below without considering the documents filed on behalf of the petitioner allowed the petition granting interim maintenance. He would further submit that the respondent has voluntarily deserted him and left the matrimonial home and therefore, she is not entitled to any maintenance. He

would also submit that with his income, he has to look after his aged parents, and other family members. He also contended that the respondent's parents are well off and that she is also educated and earning sufficiently to take care of her and the child. Accordingly, he would pray for setting aside the order passed by the court below.

4. The learned counsel for the respondent/wife would submit that as contended by the petitioner, the respondent is not working anywhere and she has to be dependent only on her parents. He would also submit that the petitioner is working in UAE and earning sufficiently. It is the further contention of the respondent that the petitioner is duty bound to maintain his family, viz., wife and children. Therefore, he would pray for the dismissal of the civil revision petition.

5. Heard both sides and perused the records.

6. Though it is contended by the learned counsel for the petitioner/husband that the respondent/wife has deserted the

petitioner and left the matrimonial home on her own and therefore, she is not entitled to maintenance, there is no evidence on record to prove that the respondent is having independent income to maintain herself and her child. Further, as held by the Hon'ble Supreme Court in number of cases, it is the bounden duty of the husband to maintain his family. The court below also after analyzing the entire facts and based on the documentary evidence produced before it, had held that the contention of the petitioner/husband that the parents of the respondent/wife is having sufficient means to look after her and the child cannot be sustained as he has not let in any evidence to show that the respondent/wife has got independent income to maintain herself. It has also held that the income derived from the properties owned by the respondent's parents cannot be taken to be the income of the respondent/wife. Further, the court below had directed the petitioner only to pay a sum of Rs.20,000/- per month as interim maintenance for the respondent/wife and the child together as against the claim made by the respondent/wife in a sum of Rs.20,000/- each.

7. It is also a settled principle now that the wife has to be maintained on par with the status of the husband. Hence, the maintenance awarded by the court below is reasonable.

8. In such circumstances, I do not find any infirmity in the order passed by the court below, warranting interference in this revision. Accordingly, this civil revision petition is dismissed. No costs.

06.01.2017

vj2

Index: Yes/No

Internet: Yes

To

The Subordinate Judge, Poonamallee

PUSHPA SATHYANARAYANA,J.,
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