



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2665 of 2019
and

C.M.P.No.13186 of 2019

V.Sakthivel ... Appellant
Vs
R.Punitha ..Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act against the erroneous Order and Decree dated 03.11.2018 in I.A.No.43 of 2017 in H.M.O.P.No.37 of 2016 passed by the Court of Family Judge, at Villupuram.

For Appellant : Mr.Prakash Paul
For Respondent : Mr.K.Goviganesan

J U D G M E N T

(Judgment of the Court was delivered by
N.KIRUBAKARAN, J)

The appeal has been preferred by the husband aggrieved over the interim maintenance awarded by the Family Court, Villupuram at the rate of Rs.3,000/- per month in the interim application filed by the respondent, in the divorce petition filed by the husband on the ground of adultery.

2. Heard Mr.Prakash Paul, learned counsel for the appellant, Mr.Goviganesan, learned counsel for the respondent and perused the records.

3. It is the case of the respondent that the appellant has been earning Rs.30,000/- per month and he is not paying any amount to her towards maintenance. The Family Court however fixed Rs.3,000/- in the absence of any proof regarding the income of the appellant. The contention of the appellant is that the respondent is not living with him and she has got clandestine relationship with one Mr. Ramesh. In this regard, learned counsel appearing for the appellant would read out the evidence of one Sivagami, who categorically stated the relationship between the respondent and Mr. Ramesh, the paramour of the respondent.



WEB COPY

4. When serious allegation has been made against the respondent, and she is not living with the appellant, legally and morally, it is not sustainable to direct the appellant to pay the amount especially when she has allegedly deserted the appellant. However, while setting aside the order, this Court is not giving any opinion regarding the issue between the appellant and the respondent. For the sake of determining as to whether the respondent is entitled to maintenance, the above observation has been made.

5. In the result, the appeal is allowed. It is made clear that uninfluenced by the observations made by the Court, the Trial Court shall decide the matter on merits. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ay
To

The Family Court,
Villupuram.

+1cc to Mr.K.Goviganesan , Advocate SR.No. 57085

+1cc to Mr.Prakash Paul , Advocate SR.No. 58003

C.M.A.No.2665 of 2019
and

C.M.P.No.13186 of 2019

gp co
A.SK(19/08/2019)