

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.10.2020

PRONOUNCED ON : 13.10.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.R.C.No.844 of 2020

Arumugam

.. Petitioner/Respondent/
Respondent/Husband

Vs.

1.A.Nellai Vadivu

2.Minor A.Shanmugapriya

Minor 2nd respondent represented by

her mother 1st respondent

.. Respondent/Petitioners/
Petitioners/Wife ad minor child

Criminal Revision preferred under Section 397 read with 481 Cr.P.C. to set aside the order dated 31.12.2019 passed by the Principal Judge, Family Court, Coimbatore in C.M.P.No.65 of 2019 in M.C.No.119 of 2019.

For Petitioner : Mr.S.Haja Mohideen Gisthi

O R D E R

For the sake of convenience, the parties will be referred to by their names.

2.Arumugam got married to Nellai Vadivu on 12.12.2010 and to them was born a daughter Shanmugapriya, who is eight years old now. Arumugam deserted Nellai Vadivu and therefore, she filed a petition under Section 9 of the Hindu Marriage Act, 1955 in the Family Court, Coimbatore, for restitution of conjugal rights. The matter was sent for mediation, where Arumugam agreed to take back Nellai Vadivu and accordingly, Nellai Vadivu joined Arumugam at Tirunelveli and lived in the matrimonial home during April 2019. However, Arumugam and his family members subjected Nellai Vadivu to untold miseries and therefore, she went back

with the child to her natal home in Coimbatore.

3.Nellai Vadivu has filed M.C.No.119 of 2019 in the Family Court, Coimbatore under Section 125 Cr.P.C. for maintenance and the same is pending. While so, Nellai Vadivu filed C.M.P.No.65 of 2019 in M.C.No.119 of 2019 for interim maintenance, which was contested by Arumugam. Ex.P1 to Ex.P18 were marked on behalf of Nellai Vadivu in the interim application and no exhibit was marked on the side of Arumugam.

4.After hearing either side, the Family Court, by order dated 31.12.2019 in C.M.P.No.65 of 2019 in M.C.No.119 of 2019, has directed Arumugam to pay interim maintenance of Rs.7,500/- per month to Nellai Vadivu and Rs.5,000/- per month to Shanmugapriya, till the disposal of M.C.No.119 of 2019, aggrieved by which, Arumugam has preferred the present criminal revision.

5.Heard Mr.Haja Mohideen Gisthi, who submitted that the interim maintenance fixed by the trial Court is exorbitant and that the trial Court had failed to take into consideration the actual earnings of Arumugam. He further contended that Arumugam had never refused or neglected to maintain his wife and daughter.

6.In the opinion of this Court, the order under challenge is only an interlocutory order and not a final order. Before the trial Court, Arumugam took a plea that he has no job or business and that he is living on the income of his parents. Whereas, Nellai Vadivu had filed Ex.P15, a C.D. showing the photographs of the shop of Arumugam to prove that he is running a business. That apart, Arumugam is an Engineering graduate and his plea that he has no job or income does not cut ice with this Court either. This Court does not find any infirmity in the order dated 31.12.2019 passed by the Family court in C.M.P.No.65 of 2019, warranting interference in this criminal revision.

In the result, this criminal revision is dismissed. The trial Court shall proceed with M.C.No.119 of 2019 uninfluenced by what is stated above.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gya

To
The Principal Judge,
Family Court, Coimbatore.

+1 cc to M/s.S.Haja Mohideen gisthi, Advocate Sr.No. 34025

CRL.R.C.No.844 of 2020

NR (CO)
RMP (09/11/2020)