

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No. 3981 of 2019

P.B.Ajee

... Appellant/Respondent

Vs.

S.R.Rashmi

... Respondent/Petitioner

PRAYER : Appeal filed under Section 19 of the Family Courts Act against the judgment and decree dated 20.08.2019 passed in I.A.No.1 of 2019 in O.P.No.3084 of 2016 dated 20.08.2019 by the III Additional Family Court, Chennai.

For Appellant : Mr.K.Balasubramaniam

For Respondent : Ms.Y.Kavitha
for M/s.Giridhar & Sai

JUDGMENT
(Delivered by M.M.SUNDRESH., J)

This appeal is preferred with respect to the interim maintenance ordered by the III Additional Family Court, Chennai pending the petition filed by the respondent for divorce.

2. The learned counsel appearing for the appellant submitted that the Family Court did not take into consideration the order passed in Crl.O.P.No.18114 of 2017 dated 26.03.2019 by which a sum of Rs.5,000/- is directed to be deposited per month which has been duly complied with. The Family Court committed an error in awarding the amount from the date of filing of the main petition as against the date of filing of I.A.No.1 of 2019 and, therefore, the appeal will have to be allowed.

3. The learned counsel appearing for the respondent submitted that the appellant is a man of means. The minor child

is also with the respondent. Therefore, the order passed by the Family Court requires no interference.

4. The Family Court, did not take into consideration the order passed in Crl.O.P.No.18114 of 2017, by which, the appellant was directed to deposit a sum of Rs.5,000/- per month. Secondly, the main petition has been filed by the respondent herself for divorce. However, for the reasons best known to her, she filed I.A.No.1 of 2019 only on 28.01.2019. Therefore, the Family Court ought to have passed interim maintenance only from the date of filing of the application in I.A.No.1 of 2019 instead of the main petition. We also took note of the fact that the appellant is working only as a Supervisor in a Private Company.

5. In such view of the matter, we direct the respondent to withdraw the amount accrued by way of the compliance of the order passed by the learned Single Judge in Crl.O.P.No.18114 of 2017. Accordingly, the amount payable by the appellant towards the interim maintenance is reduced to Rs.12,000/-. Of the said Rs.12,000/-, the amount deposited till the month of January, 2020 stands adjusted. Therefore, from the month of February, 2020, there is no need to comply with the order passed in Crl.O.P.No.18114 of 2017. This order we pass by taking into consideration the fact that ultimately the amount will have to be given to the respondent and it is nothing but a matrimonial discord between the parties. From the month of February, 2020 onwards, a sum of Rs.12,000/- will have to be paid to the respondent on or before the first week of every Month till the disposal of O.P.No.3084 of 2016. The arrears after deduction, if any, will have to be paid to the respondent within a period of six weeks from the date of receipt of a copy of this judgment.

6. In view of the above, the Civil Miscellaneous Appeal stands allowed. No Costs. Consequently, connected C.M.P.No.22502 of 2019 is closed.

7. Taking into consideration the fact that the main O.P. is pending for more than three years, we direct the III Additional Family Court, Chennai to dispose of the same within a period of six months from the date of receipt of a copy of this judgment.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssm

To

The III Additional Judge, Family Court,
Chennai.

+1cc to Mr.K.Balasubramanian, Advocate SR.3446

+1cc to M/s.Girihar & Sai, Advocate SR.3382

C.M.A.No.3981 of 2019

SJ(CO)
CB(21/02/2020)



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