

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.4321 of 2019
and
C.M.P.No.24509 of 2019

(Through Video Conferencing)

D.Murali ... Appellant

Vs.

Gopika Mamtha Devi ... Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act, 1984, to set aside the fair and decreetal order passed in I.A.No.11 of 2019 in O.P.No.79 of 2019 by the Family Court, Krishnagiri dated 21.08.2019 and allow the instant civil miscellaneous appeal.

For Appellant : Mr.Karthikeyan
for Mr.V.Nicholas

For Respondent : Mr.Subbarayalu N.S.
for Mr.S.Kanniah

J U D G M E N T

(Judgment of the Court was delivered
by C.SARAVANAN, J.)

This Civil Miscellaneous Appeal has been filed by the husband against impugned Fair and Decreetal order dated 21.08.2019 passed by the Family Court, Krishnagiri in I.A.No.11 of 2019 in O.P.No.79 of 2019.

2. By the impugned order, the Family Court, Krishnagiri has ordered payment of Rs.8,000/- as monthly maintenance to be paid by the appellant (husband) to the respondent (wife) under Section 24 of the Hindu Marriage Act, 1955 till the disposal of the Original Petition. The Family Court has also ordered payment of Rs.10,000/- towards litigation expense.

3. In this appeal, the appellant has challenged this amount ordered to be paid by the appellant to the respondent on the ground that the respondent was an accused in a murder case due an illicit relationship. It was further submitted that the appellant was not only maintaining their children born out of the wedlock with the respondent but also taking care of his aged father.

4. It was further submitted that the respondent was having a business along with her brother and was earning independently and therefore the respondent did not require any interim maintenance from the appellant. It was further submitted that the appellant does not have a steady job and therefore the Family Court ought to have dismissed the aforesaid application filed by the respondent under Section 24 of the Hindu Marriage Act, 1955.

5. Per Contra, the learned counsel for the respondent submits that the impugned order passed by the Family Court was well reasoned and requires no interference. The learned counsel for the respondent further submits that as on date the appellant was in arrears of a sum of Rs.2 lakhs and prayed for a direction to direct the appellant to pay the arrears.

6. We have considered the arguments advanced by the learned counsel for the appellant and the learned counsel for the respondent. We have also considered by overall facts and circumstances of the case.

7. We are of the view that the order of the Family Court was well reasoned. As a husband, the appellant cannot disown his responsibility to his wife. The respondent was therefore entitled for monthly maintenance from the appellant. At the same time, we are of the view that the Family Court ought to have restricted the maintenance to Rs.6,000/- per month instead of Rs.8000/- per month considering the fact that the children of the appellant and the respondent are with the appellant and are being taken care by the appellant himself.

8. Under these circumstances, we modify the maintenance to Rs.6,000/- per month instead of Rs.8,000/- per month payable by the appellant. Therefore, the appellant is liable to pay to the respondent a sum of Rs.6,000/- per month as interim maintenance from the date of I.A.No.11 of 2019 filed before the Family Court. The appellant shall continue to pay the aforesaid amount till the final disposal of O.P.No.79 of 2019 by the Family Court. The amount of Rs.10,000/- ordered by the Family Court towards litigation expense stands confirmed.

9. It is noticed that at the time of admission of this case, this court by its order dated 19.11.2019 in C.M.P.No.24509 of 2019 in C.M.A.No.4321 of 2019 had directed the appellant to deposit 50% of the arrears of the maintenance with proportionate interest to the credit of this appeal. The learned counsel for the appellant submits that a sum of Rs.56,000/- was deposited pursuant to the aforesaid interim order of this Court.

10. Under the circumstances, we therefore direct the appellant to deposit the arrears and balance amount of maintenance calculated at Rs.6,000/- per month from the date of I.A.No.11 of 2019 in O.P.No.79 of 2019 within a period of four weeks from the date of receipt of a copy of this Judgment.

11. The respondent is permitted to withdraw the amount already deposited and withdraw the balance to be deposited by the appellant pursuant to this Judgment.

12. Going forward, the appellant is directed to continue to pay monthly maintenance of Rs.6,000/- directly to the respondent by 5th of every English Calendar Month and file a memo of such compliance before the Family Court periodically. Subject to such payment and reporting compliance by the appellant before the Family Court, O.P.No.79 of 2019 filed by the appellant shall be taken up for expeditious disposal by the Family Court.

13. The appeal filed by the appellant stands partly allowed with the above directions. No cost. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

1.The Judge
The Family Court,
Krishnagiri.

+1 CC to M/s.V. Nicholas, Advocate sr 33349.

C.M.A.No.4321 of 2019
and
C.M.P.No.24509 of 2019

SAI (CO)
SP(21/01/2021)