

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.R.C.No.1222 of 2018

and

Crl.M.P.No.14417 of 2018

Prawinkumar

..Petitioner

Vs

1.S.Kaviya

2.Minor Dan Kavın

represented by mother and natural
Guardian S.Kaviya/1st respondent.

..Respondents

Prayer:- Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. praying to set aside the order dated 25.07.2018 passed in F.C.M.C.No.15 of 2017 by the Family Court, Vellore.

For Petitioner : No representation

For Respondents : Mr.D.Venkateswaran

ORDER

Questioning the maintenance of Rs.8,000/- per month awarded to the 2nd respondent, vide order dated 25.07.2018 passed by the Family Court, Vellore, in F.C.M.C.No.15/2017, the present Revision case has been filed by the petitioner/husband.

2.The revision petitioner is the husband and the first respondent is the wife. They got married on 13.05.2013. Out of the said wedlock, the first respondent delivered a male child, namely, Dan Kavın, the second respondent. Due to a matrimonial dispute, they are living separately. The respondents filed a petition for maintenance before the Family Court, Vellore, claiming a sum of Rs.20,000/- per month. Considering the materials available on record, the Family Court directed the petitioner herein to pay a monthly maintenance of Rs.8,000/- to the second respondent alone from the date of petition for maintenance. Insofar as the first respondent is concerned, the petition stood dismissed. Challenging the same, the petitioner has come up with this Criminal Revision Case.

3.There is no representation for the petitioner either in person or through his learned counsel. It is averred in the affidavit filed in support of this Criminal Revision that the Family Court failed to note that the first respondent voluntarily deserted the petitioner and is living separately along with the second respondent and the petitioner only has

filed a petition for restitution of conjugal rights. It is also averred therein that the first respondent/wife is working in Hospital, by which she is capable of maintaining herself and the second respondent as well, whereas the petitioner is unemployed and has no means to maintain himself. Without considering the said aspect and in the absence of any proof to support the avocation and income of the petitioner, the Family Court erred in holding that the petitioner could earn Rs.30,000/- and ordering the monthly maintenance at the rate of Rs.8,000/- to the second respondent/child. Hence, the petitioner sought to set aside the said order passed by the Court below.

4. The learned counsel for the respondent has submitted that the Family Court has considered the materials on record in a proper perspective and ordered the maintenance amount and hence the same does not require any interference.

5. Heard the learned counsel for the respondents and perused the materials placed before this Court.

6. On 06.12.2018, while admitting this Criminal Revision, this Court has granted an order of interim stay on condition that the petitioner shall deposit 50% of the arrears of maintenance amount within a period of two weeks and further continue to pay the monthly maintenance as awarded by the Family Court, on or before 5th of every English Calender Month to the respondents. Since the said order has not been complied with by the petitioner, the interim stay granted stood vacated.

7. After a careful and threadbare analysis of the documents filed in the typed set of papers, including the order impugned herein, this Court is of the view that the Family Court has considered all the materials placed before it and awarded a reasonable sum of Rs.8,000/- towards monthly maintenance to the second respondent/child, which is bound to be paid by the petitioner/husband. Hence, this Court finds no reason much less valid reason to interfere with the quantum so fixed by the Family Court.

8. Accordingly, this Criminal Revision stands dismissed, leaving it open to the respondents to recover the monthly maintenance including arrears, in the manner known to law. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Family Court at Vellore.

+1cc to Mr.Venkateswaran, Advocate, S.R.No.12101

Cr1.R.C.No.1222 of 2018

mg (Co)
smn (29/05/2020)



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