



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2020

CORAM:

THE HONOURABLE **MR. JUSTICE A.D. JAGADISH CHANDIRA**

Crl.O.P.(MD).No. 14543 of 2019

and

Crl.M.P. (MD) No.8800 of 2019

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S.Suresh

...Petitioner / Petitioner

Vs.

1.Minor.S.Megkna

2.G.Srilakshmi

... Respondents / Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records and set aside the order dated 20.04.2019 in Crl.R.C.No.10 of 2019 on the file of the learned Principal Sessions Judge, Tiruchirappalli confirming the order passed in Cr.M.P.No.3670 of 2017 in M.C.No.2 of 2017 on the file of the learned Judicial Magistrate, Thuraiyur, Tiruchirappalli District dated 01.12.2018 by allowing this criminal original petition.

For Petitioner : Mrs.P.Malini

For Respondents : Mrs.Prabhashini

for Mr.R.Ravindran

O R D E R

The Criminal Original Petition has been filed to set aside the order dated 20.04.2019 in Crl.R.C.No.10 of 2019 on the file of the learned Principal Sessions Judge, Tiruchirappalli confirming the order passed in Cr.M.P.No.3670 of 2017 in M.C.No.2 of 2017 on the file of the learned Judicial Magistrate, Thuraiyur, Tiruchirappalli District dated 01.12.2018.

2. The brief facts of the case is as follows :-

The petitioner is the husband. The marriage between the petitioner and the second respondent was solemnized on 10.06.2012 as per the Hindu rites and customs and out of the wedlock, the second respondent/wife delivered a female child on 01.07.2014. Due to the matrimonial dispute they are living separately.

3. The respondent/wife had filed M.C.No.2 of 2017 before the learned Judicial Magistrate, Thuraiyur, Trichy District seeking to pay a sum of Rs.75,000/-p.m. as maintenance to her and their child and further sum of Rs.1,00,000/-p.a. towards education expenses of the child. While the MC was pending, the second respondent/wife had also filed Crl.MP.3670 of 2017 in MC.No.2 of 2017 before the trial Court seeking for a direction to pay a sum of Rs.25,000/-p.m. towards interim maintenance. The trial Court had directed the petitioner to pay a sum of Rs.7,500/-p.m. each to the petitioners



totally a sum of Rs.15,000/-p.m. Aggrieved over the same, the petitioner had filed the revision petition before the District and Sessions Court in Crl.Rc.No.10 of 2019. The learned District Court had dismissed the same, against which the present criminal original petition has been filed.

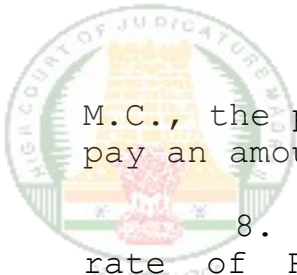
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4. The learned counsel for the petitioner would submit that the respondent/wife had without any sufficient cause deserted the petitioner and thereby she is not entitled to any maintenance. The Courts below failed to take into consideration the legal grounds that the respondent wife is not entitled to payment of maintenance had on wrong perspective had allowed the petition for interim maintenance. The award of interim maintenance at Rs.15,000/-p.m. is excessive and thereby he would seek to set aside the orders of the Courts below.

5. The learned counsel for the respondents would submit that the trial Court taken into consideration that the respondent/wife and her child had been deserted by her husband and that the respondent/wife and her child were not maintained properly had awarded interim maintenance to the wife and the child. She would further submit that the Court has granted interim maintenance only. Thereafter, the respondent had filed revision before the Sessions Court and the Sessions Court had also confirmed the order. She would further submit that there is no perversity or illegality in the order passed by the Court below and thereby there is no need for interference at this stage. Further, it is only the order of interim maintenance. The Apex Court had held that the object of grant of interim maintenance is to prevent vagrancy and destitution which provides for speedy remedy for supply of food, clothing and shelter to the destituted wife. It is only a natural duty of a man to maintain his wife and child. She would further submit that though the order directing payment of interim maintenance has been passed as early as on 15.12.2017, the husband has not paid even a single rupee towards maintenance. In support of her contention, the learned counsel would rely on the judgment of the Hon'ble Apex Court reported in **2015 (5) SCC 705 - Shamima Farooqui v. Shahid khan.**

6. Heard both sides and perused the materials on records.

7. The petitioner is the husband, the marriage between the petitioner and the second respondent took place on 10.06.2012 as per Hindu rites and customs and out of the wedlock, the second respondent/wife has delivered a female child on 01.07.2014. The respondent wife had been sent out of the matrimonial house. The petitioner/husband has not maintained his wife and child. The respondents have filed MC.No.2 of 2017 claiming an amount of Rs.75,000/-p.m. towards maintenance. The petitioner husband is a BE graduate working as a Merchandiser in Euro Impex Pvt Ltd and earning a monthly income of Rs.8 to 10 lakhs p.m. Though, the amount of Rs.75,000/-p.m. has been claimed as monthly maintenance in the main



M.C., the petition for interim maintenance has been filed seeking to pay an amount of Rs.25,000/-p.m. towards interim maintenance.

8. The trial Court had awarded interim maintenance at the rate of Rs.15,000/-p.m. to the respondents, against which the petitioner has filed revision and the revisional Court has also dismissed the revision and confirmed the order of the trial Court. The Courts below have taken into consideration the status of the petitioner/husband and awarded the interim maintenance. The respondent has stated that till date the petitioner has not paid even a single rupees towards maintaining his wife and child. In the judgment of the Hon'ble Apex Court reported in **2015 (5) SCC 705**, it has been held that interim maintenance is granted with the object of preventing vagrancy and destitution of wife and children. It is apposite to refer to para 16 :-

"16. Grant of maintenance to wife has been perceived as a measure of social justice by this Court. In Chaturbhuji v. Sita Bai, it has been ruled that:-

"Section 125 CrPC is a measure of social justice and is specially enacted to protect women and children and as noted by this Court in Captain Ramesh Chander Kaushal v. Veena Kaushal falls within constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India. It is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves. The aforesaid position was highlighted in Savitaben Somabhai Bhatiya v. State of Gujarat."

This being the position in law, it is the obligation of the husband to maintain his wife. He cannot be permitted to plead that he is unable to maintain the wife due to financial constraints as long as he is capable of earning."

9. The main M.C., has been filed during the year 2017. Till such time, the main M.C. is disposed the wife and child cannot be allowed to linger in vagrancy and destitution. The order of interim maintenance has been passed for providing speedy remedy for supply of food, clothing and shelter to the destituted wife. Thus the Courts below have rightly awarded interim maintenance.

10. This Court does not find any infirmity in the order passed by the Courts below. The petition has no merits and the petition is dismissed. The respondent/wife is entitled to take



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steps to file appropriate petition for recovery of arrears of interim maintenance. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

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/ /2020

Sub Assistant Registrar(CS)

vsg

To

1.The Principal Sessions Judge,
Tiruchirappalli.

2.The Judicial Magistrate,
Thuraiyur,
Tiruchirappalli District.

+1 CC to M/s.R.RAVINDRAN, Advocate (SR-9746[F] dated 03/03/2020)

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(1/2)

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