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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL.R.C.NO.567 OF 2018

AND

CRL.M.P.NO.6716 OF 2018

K.N.Lakshminarayanan

...Petitioner

-Vs-

1. K.J.Kamakshi

2. K.L.Sathyanarayanan (Minor)

Rep. by his mother and natural guardian

...Respondent

This Criminal Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the orders dated 19.01.2018 in MC. No.261 of 2013 before the learned V Additional Family Court, Chennai.

For Petitioner : Mrs.Hema Sampath
Senior Counsel
For Mrs.R.Meenal
For Respondents : Mrs.Prabhavathi

O R D E R

This Criminal Revision has been filed to set aside the order in MC. No.261 of 2013 before the learned V Additional Family Court, Chennai.

2. The revision petitioner is the husband and the respondents are the wife and son of the petitioner. The case of the petitioner is that the marriage was solemnized between the petitioner and the first respondent on 07.09.2007 as per Hindu Rites and Caste Customs. The said marriage was arranged marriage. Out of such wedlock, the second respondent was born. After the marriage, the petitioner and the first respondent were started their marital life at United Kingdom. The couple came back to Chennai on 29.03.2008 for the first respondent's delivery. Due to misunderstanding between them, the petitioner went to abroad and the spouses were living separately. In the



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meanwhile, the first respondent has filed a petition for restitution of conjugal rights before the Family Court, Chennai in OP.No.3929 of 2011 and the petitioner has filed a divorce petition in FCOP.No.3374 of 2009. In the divorce petition, the trial Court awarded a sum of Rs.15,000/- as interim maintenance to the respondents and thereafter, the divorce petition was dismissed and the restitution petition was ordered in favour of the first respondent. Aggrieved by the said order, the petitioner filed the appeals before this Court in CMA Nos.1330 and 1331 of 2013 and this Court was also dismissed the same on 21.02.2018 and confirmed the order of the trial Court. Challenging the said order, the petitioner filed a Special Leave Petition before the Hon'ble Apex Court and the same is pending.

3. Whiles, the first respondent filed a petition under Section 125 Cr.P.C., claiming maintenance of Rs.2,00,000/- on various heads, which was taken on file in MC.No.261 of 2013. The Family Court, after adverting the materials placed on record and after hearing both the parties, allowed the petition in part and the petitioner was directed to pay a sum of Rs.30,000/- per month to the wife and Rs.15,000/- per month to the son towards monthly maintenance. As against the same, the revision petitioner/husband has filed the present revision before this Court.

4. The learned Senior counsel for the petitioner/husband submitted that the trial Court has awarded a sum of Rs.45,000/- to the respondents as monthly maintenance. It is submitted that the petitioner has been paying the school fees, transport charges, medical expenses, tuition fees, etc., to the second respondent voluntarily even without any order of the Court and he has also taken LIC Policy to ensure that his son will receive the money before he attained majority. In the above circumstances, it is submitted by the learned Senior Counsel for the petitioner that the maintenance at Rs.45,000/- per month awarded is very much excessive and therefore, seeks intervention.

5. The learned counsel for the respondents submitted that the petitioner is working in London and earning a sum of Rs.3,50,000/- per month. The respondents are struggling for their livelihood and the first respondent is not employed and she is living at her parental house along with her son. The first respondent is not having sufficient means. The Court below has directed the petitioner to pay a sum of Rs.45,000/- per month as maintenance to both the respondents, which is very low and therefore, no interference is warranted with the said order.



6. Heard the learned counsel appearing on behalf of the petitioner and the respondents and perused the materials placed on record.

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7. On a careful perusal of the records, it is seen that the marriage between the petitioner and the respondents, relationship of the parties as well as the fact that they are living separately are not in dispute. Admittedly, the petitioner is working at London and he is paying a total sum of Rs.45,000/- to both the respondents for maintenance. However, the first respondent is not employed and she is living in her parental house along with her minor son.

8. That being the case, the petitioner has filed a Special Leave Petition before the Hon'ble Supreme Court challenging the order of this Court for divorce. Apart from that, he is regularly paying the maintenance to the respondents. The respondents have also accepted the same.

9. In view of the facts as narrated above and considering the overall factual matrix, this Court is inclined to modify the award as follows:

(i) The petitioner is directed to pay a sum of Rs.15,000/- to the first respondent and a sum of Rs.25,000/- to the second respondent toward monthly maintenance from the date of petition to till date.

(ii) The petitioner is directed to pay a sum of Rs.15,000/- to the first respondent and to pay a sum of Rs.25,000/- to the second respondent toward monthly maintenance on or before 5th day of every English Calendar month, without any default;

(iii) the petitioner is directed to calculate the arrears as quantified above and deposit the entire arrears of maintenance as fixed by this Court, less the amount, if any, already deposited to the credit of MC. No.261 of 2013 before the learned V Additional Family Court, Chennai, within a period of four weeks from the date of receipt of a copy of this order; and

(iv) the respondents are directed to withdraw the said amount by filing appropriate petition before the trial Court.''



10. With the above observations, this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rli

To

The V Additional Principal Judge, Family Court, Chennai.

+1cc to M/s.R.Ganesh Ram, Advocate, S.R.No.49315

+1cc to Mr.R.Meenal, Advocate, S.R.No.48877

Cr1.R.C.No.567 of 2018
and Cr1.M.P.No.6716 of 2018

RGN(CO)
KKV/17/11/2021