



C.R.P. (PD) No. 1528 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.12.2021**

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

C.R.P.(PD) No.1528 of 2019
and C.M.P. No.9978 of 2019

Vinayagam

...Petitioner

Versus

Archana

...Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set side the fair and decreetal order dated 13.02.2019 made in I.A. No.18 of 2018 in H.M.O.P. No.135 of 2016, on the file of the learned Sub Court, Bhavani, by allowing this Civil Revision Petition.

For Petitioner : Mr. N.Manokaran

For Respondent : Mr. E.C.Ramesh

ORDER

This Civil Revision Petition is directed against the order in I.A. No.18 of 2018 in H.M.O.P. No.135 of 2016 on the file of the Sub Court, Bhavani.



2. The revision petitioner is the husband and the respondent is the wife of the petitioner. The marriage between the petitioner and the respondent was solemnized on 19.06.2013. The revision petitioner filed a petition for divorce in F.C.H.M.O.P. No.76 of 2015, as against the respondent. During the pendency of the petition for divorce, the respondent wife filed an Interlocutory Application under Section 24 of the Hindu Marriage Act, in I.A. No.18 of 2018 for interim maintenance. In the affidavit filed in support of the petition, the respondent has stated that the petitioner is having several shops to sell mobile phones on wholesale as well in retail. It is stated that the petitioner is earning not less than a sum of Rs.3,00,000/- per month as income. It is further stated by the respondent that apart from having several shops of mobile phones the petitioner is also running ATM Centre and earning a sum not less than Rs.70,000/- per month. The respondent has also stated about rental income of the petitioner in the affidavit filed in support of the petition.

3. A counter affidavit was filed by the petitioner. In the counter affidavit filed by the petitioner though the averments in the affidavit filed in support of the petition are generally denied, the specific averments with regard to the business conducted by the petitioner and the income derived from other sources are not specifically denied with reference to the facts and details. The petitioner



mainly focused on his plea that the respondent wife is earning a sum of Rs.1,00,000/- per month by getting employment as a Project Manager in a software company. However, the petitioner did not produce any evidence before lower Court or this Court to show that the respondent wife is having income to maintain herself and her only child.

4. It is not in dispute that the respondent is living with her child. Hence, she prayed for Rs.50,000/- per month as maintenance apart from lumpsum amount towards education of her child. However, the lower Court granted relief by directing the petitioner to pay a sum of Rs.20,000/- per month towards interim maintenance of his wife and child.

5. In the civil revision petition, the petitioner has raised several grounds by referring to certain facts touching the issues that arise for consideration in the petition for divorce. As against the claim for a sum of Rs.50,000/-, the lower Court has granted interim maintenance at the rate of Rs.20,000/- per month, after taking into consideration the income of the petitioner as a dealer for mobile phones. Though it is stated by the petitioner that the respondent is also employed as a Project Manager in a software company, there is no evidence forthcoming from the petitioner either before the lower Court or



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before the District Court, to show that the respondent is also independently earning. The petitioner has not come forward to prove his version regarding the respondent's income. He did not dispute his sources of income specifically.

6. In the absence of any materials which would reflect the income of the respondent, this Court is unable to interfere with the order passed by the lower Court granting interim maintenance @ Rs.20,000/- per month. Hence, this Civil Revision Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

08.12.2021

Index: Yes/ No

Speaking Order / Non-Speaking Order

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S.S.SUNDAR, J .,

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