

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.R.P.(PD).No.980 of 2018

and

C.M.P.No.5239 of 2018

Siddaiyan @ Thomas

.. Petitioner

Vs.

Padma @ Pris Killa

.. Respondent

Prayer: Criminal Revision Case filed under Article 115 of Civil Procedure Code, to allow the civil revision petition by setting aside the interim maintenance order dated 12.07.2017 passed in I.A.No.1168/2014 in I.D.O.P.No.201 of 2013 on the file of the Principal District Judge, Salem.

For Petitioner : Mr.M.Balaji

ORDER

This petition is filed challenging the order passed by the Court below in I.A.No.1168 of 2014 dated 12.07.2017 by the Principal District Judge, Salem.

2. The I.A. was filed by the respondent herein for a direction to pay

the interim maintenance of a sum of Rs.15,000/-. However, the Court after considering the matter on merits directed the petitioner / husband herein to pay Rs.3,000/- per month as interim maintenance to the respondent. The said I.A. was filed by the respondent in I.D.O.P.No.201 of 2013 for dissolution of marriage.

3. According to the revision petitioner, the marriage was solemnized in the year 2011. He submits that the respondent / wife is working in a jewellery shop and earning sufficient amount. The petitioner at present does not have any work and therefore, he is not in a position to pay the amount as directed by the Lower Court. Challenging the said order, the revision petitioner filed the present petition.

4. Heard the learned counsel on both sides and perused the available materials on record.

WEB COPY

5. The marriage was solemnized between the petitioner and the respondent in the year 2011 and the I.D.O.P. was filed by the revision petitioner in the year 2013. The above I.A. was filed for the purpose of interim maintenance claimed by the respondent to the tune of Rs.15,000/-. However, the

Court below has directed the petitioner to pay interim maintenance of Rs.3000/- per month. It is relevant to extract para 8 of the order passed by the Court below:

“8. On the respondent side stated that respondent is running silver unit by employing more than 10 persons and earning a sum of Rs.40,000/- per month. On the respondent side denies this contention. But, it is not denied that he is doing silver jewellery work. In the circumstances, even if he goes on jewellery work on labour basis he could have earn atleast a sum of Rs.500/- per day as a wage. Of course, all the 30 days one should not have the work, if he is work for 25 days after deducting the week end holidays, he would have earn atleast Rs.12,500/-. In these circumstances, the monthly income of the petitioner is determined on the basis on the prevailing labour market and age of the respondent at Rs.13,000/- p.m. When the monthly income of the petitioner is determined at Rs.13,000/-, the maintenance amount payable to the petitioner to be determined. The amount of maintenance payable is to meet the basic needs of the petitioner. However, at the same time it is also to be considered the paying capacity of the respondent. Considering all the aspect and prices prevailing in the market and other all attending circumstances, it is decided to fix a sum of Rs.3,000/- towards the monthly maintenance payable by the respondent to the petitioner.”

6. A perusal of para 8 would show that though the respondent has claimed an interim maintenance of a sum of Rs.15,000/-, the Court below has awarded a sum of Rs.3,000/- as interim maintenance. This Court is of the view that the amount awarded by the Court below as interim maintenance is very reasonable and in fact, the respondent could even seek for increase in the interim maintenance.

7. In these circumstances, this Court does not find reason to interfere with the order passed by the Court below as amount of Rs.3,000/- awarded towards the interim maintenance is very low and the same cannot be reconsidered as contended by the revision petitioner. Hence, the CRP deserves for dismissal.

8. While dismissing the C.R.P., this Court directs the revision petitioner to pay the arrears of interim maintenance within a period of three months from the date of receipt of a copy of this order and the petitioner is directed to pay the interim maintenance of Rs.3,000/- as ordered by the Court below within 5 days of beginning of every English calendar month, i.e., the petitioner shall pay the interim maintenance of Rs.3,000/- for the month of

February 2021 on or before 28th and thereafter, the petitioner has to make the payment on or before 5th of every English calendar month without fail.

9. Further, the I.D.O.P. was filed in the year 2013. Hence, this Court directs the Court below to dispose of the case in six months from the date of receipt of a copy of this order provided the petitioner complies with the order passed by this Court. In case, if the interim maintenance is not paid including the arrears, the Court can deal with this I.D.O.P. in accordance with law, without any reference to the order passed by this Court with regard to the disposal of the case.

10. Accordingly, this Civil Revision Petition is dismissed with the above directions. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

03.02.2021

bri
Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order

WEB COPY

KRISHNAN RAMASAMY,J.

bri

To

The Principal District Judge,
Salem.



C.R.P.(PD).No.980 of 2018
and
C.M.P.No.5239 of 2018

WEB COPY

03.02.2021