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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.524 OF 2021

AND

CRL.M.P.NO.8566 OF 2021

S.Rajendran

... Petitioner

Versus

Gomathi

... Respondent

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records pertaining to the order dated 26.02.2021 made in M.C.No.38 of 2016 on the file of the learned Additional Principal Family Judge, Coimbatore and set aside the same by allowing this revision petition.

For Petitioner : Mr.R.Swarnavel

O R D E R

This Criminal Revision Case has been filed against the order dated 26.02.2021 passed in M.C.No.38 of 2016 by the learned Additional Principal Family Judge, Coimbatore.

2.The petitioner is the husband and the respondent is the wife. The respondent/wife filed a petition under Section 125 Cr.P.C in M.C.No.38 of 2016 before the learned Additional Principal Family Judge, Coimbatore. The learned Judge, after enquiry ordered a sum of Rs.5,000/- (Rupees Five Thousand only) per month as maintenance to the respondent. Challenging the said order, the petitioner is before this Court by way of this revision.



3.The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 16.09.2015 and it is the second marriage for both. Both the petitioner and respondent having children through their first marriage. The respondent voluntarily deserted the petitioner without any valid reasons. Further, the respondent is working as a Service Staff in GEDEE Public School and earning Rs.7,000/- per month and has resigned her job only in the year 2019. In order to prove the employment of the respondent, the Administrative Officer of the School was examined as R.W.2 and salary certificate of the respondent was marked as Ex.X3. He would further submit that the petitioner is working as a marriage broker and he does not have any permanent source of income. As such the petitioner is struggling to survive himself and take care of his grown up children, whereas, the respondent/wife is having sufficient income to maintain herself and her children. However, the Court below without appreciating the entire materials ordered Rs.5,000/- per month as maintenance to the respondent.

4.Heard the learned counsel for the petitioner and perused the materials available on record.

5.Since the matter pertains to maintenance case, the Family Court ordered Rs.5,000/- per month as maintenance to the respondent and this Court is inclined to decide the matter after hearing the petitioner at the time of admission stage itself.

6.On a careful perusal of the records, it reveals that the marriage between the petitioner and the respondent is not in dispute. Further, the petitioner and the respondent are living separately. According to the petitioner, the respondent was working as Service Staff in GEDEE Public School and earning Rs.7,000/- per month, whereas, he is working as a marriage broker and he is not having sufficient income. However, the petitioner has not produced any documents to substantiate the same. At the time of filing the case, the respondent was earning very meagre salary and she is having one child, through her first husband and it is very difficulty to maintain herself and her child and she resigned her job in the year 2019.

7.It is settled proposition of law that as per Section 125 of Cr.P.C whether wife is unable to maintain herself she is entitled for maintenance, despite the husband having means or not.

8.Considering the facts and circumstances of the case, this Court is of the considered opinion that the respondent/wife is having one child and the amount of Rs.5,000/- per month as maintenance ordered by the Court below is not exorbitant and



disproportionate. In the absence of the affidavit filed by the petitioner/husband regarding declaration of his income, this Court is not inclined to interfere with the order passed by the learned Judge and hence, the same is liable to be dismissed. Accordingly, the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

ms

To

1. The Additional Principal Family Judge,
Coimbatore.

Cr1.R.C.No.524 of 2021
and
Cr1.M.P.No.8566 of 2021

JP-II(CO)
RLP(27/09/2021)