IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.965 of 2019
and Crl.M.P.Nos.19128 of 2019 & 13627 of 2019

A.T.Thiruvenkadakumar ... Petitioner

Versus

1.A.Sugasini
2.Minor Raksana ... Respondents

PRAYER: Criminal Revision petition is filed under Section 397 r/w.401 Cr.P.C to set aside the order in M.C.No.82 of 2018 dated 30.01.2019 passed by the learned Family Court Judge, Cuddalore.

For Petitioner : Mr.R.Karthikeyan

For Respondents : No appearance

O R D E R

The petitioner is the husband. The respondents are wife and son. The petitioner filed O.P., for divorce against the 1st respondent wife. The 1st respondent also filed petition in I.A.No.76 of 2018 under Section 24 of Hindu Marriage Act for interim maintenance before the Judge, Family Court, seeking to award Rs.25,000/- per month as interim maintenance till the disposal of the HMOP. The Judge, Family Court, on 22.01.2019, awarded Rs.10,000/- to the first respondent and Rs.15,0000/- to the 2nd respondent.

2. The respondents also filed another petition in M.C.No.82 of 2018 under Section 125 of Cr.P.C. seeking interim maintenance, in which petition also, the Judge, Family Court, awarded Rs.10,000/- to the 1st respondent/wife and Rs.15,000/- to the 2nd respondent/son. Challenging the said order, the petitioner is before this court.

3. The learned counsel for the petitioner would submit that already O.P., filed by the petitioner/husband for divorce in HMOP.No.45/2018 is pending. During the pendency, invoking Section 24 of the Hindu Marriage Act, I.A.No.76 of 2018 has been filed, wherein, the court awarded Rs.10,000/- to the respondents

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and another Rs.10,000/- towards cost for legal expenses by order dated 22.01.2019. The 1st respondent also simultaneously filed petition In M.C.No.82 of 2018 seeking maintenance of Rs.1,25,000/- each for herself and son. The Family Court failed to consider the fact that already order has been passed awarding maintenance of Rs.10,000/- to the respondents as interim maintenance and awarded Rs.10,000/- to the wife and Rs.15,000/- to the son altogether Rs.25,000/- to the respondents in M.C.No.82 of 2018 by order dated 30.01.2019. Therefore, the order of the Family Court is liable to be set aside.

4. There is no representation for the respondents.

5. Admittedly, petitioner is the husband. Respondents are the wife and son. The petitioner filed divorce H.M.O.P.No.45/2018 before the Family Court, Cuddalore. During the pendency of the Matrimonial O.P., the respondents also filed petition u/s.24 of the Hindu Marriage Act for interim maintenance which was partly allowed by the Judge, Family Court and Rs.10,000/- was modified and awarded. The respondents also filed another case in M.C.No.82/2018 before the very same Family Court seeking interim maintenance for herself and her son. Therefore, the Family Court, awarded Rs.10,000/- to the wife and Rs.15,000/- to the son.

6. Under these circumstances, this court finds that there is perversity in the order passed by the Family Court in M.C.No.82 of 2018 dated 30.01.2019. Therefore, the order passed by the Family Court regarding the 1st respondent/wife is set aside.

7. Since the Family Court awarded a sum of Rs.10,000/- in the petition filed under Section 24 of the Hindu Marriage Act, the order passed in M.C.No.82 of 2018 for the 1st respondent/wife is set aside. However, the 2nd respondent/son, is concerned, the Family Court not passed any order to the minor son in the petition under Section 24 of Hindu Marriage Act. In I.A.No.76/2018. The order passed by the Family Court, to the 2nd respondent, minor son in M.C.No.82 of 2018 is confirmed. Therefore, this Criminal Revision is partly allowed. The order of maintenance ordered to the 1st respondent/wife is set aside. The order of maintenance ordered to the 2nd respondent/son is confirmed. Consequently, connected MPs are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To

The Judge Family Court, Cuddalore.

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