

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2021

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. (PD) No.2161 of 2020 & C.R.P. (PD) No.85 of 2021
and
C.M.P.No.13616 of 2020

S. Prabhakaran ... Petitioner
(In C.R.P. No.2161 of 2020)
S. Rubini ... Petitioner
(In C.R.P. No.85 of 2021)
Vs.
S. Rubini ...
Respondent (In C.R.P. No.2161 of 2020)
S. Prabhakaran ... Respondent
(In C.R.P. No.85 of 2021)

Common Prayer: These Civil Revision Petitions filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 28.10.2020 made in I.A. No.1 of 2019 in H.M.O.P. No.36 of 2019 on the file of the Principal Sub-Court, Hosur, Krishnagiri District.

For Petitioner ... Mr.R. Bharath Kumar
For Respondent ... Mr.C.Prahakaran
(In CRP No.2161 of 2020)

For Petitioner ... Mr.C.Prahakaran
For Respondent ... Mr.R. Bharath Kumar
(In CRP No.85 of 2021)

COMMON ORDER

The Civil Revision Petitions have been filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 28.10.2020 made in I.A. No.1 of 2019 in H.M.O.P. No.36 of 2019 on the file of the Principal Sub-Court, Hosur, Krishnagiri District.

2. The brief facts of the case is as follows:

The petitioners in both petitions are husband who has filed HMOP No. 36 of 2019 seeking for dissolution of marriage and wife who has filed I.A. No.1 of 2019 seeking for interim maintenance before the Principal Sub-Court, Hosur. Their marriage was solemnized on 03.06.2013 at R.K. Mahal Kalyana Mandapam at Hosur as per Hindu Marriage Rites and Customs. Out of the wedlock, two male children were born to them namely Minor Rithik aged 7 years and Minor Leshan aged 2 years. Due to misunderstanding and household quarrel, the husband filed HMOP No.36 of 2019 on the file of the Principal Sub-Court, Hosur seeking the relief of dissolution of marriage on the ground of cruelty and harassment. Pending HMOP No.36 of 2019, the wife has filed I.A. No.1 of 2019 seeking for interim maintenance of Rs. 30,000/-

per month and Rs.20,000/- towards litigation expenses to her and children. The Trial Court after considering oral and documentary evidence, by order dated 28.10.2020 partly allowed the Interlocutory application in I.A.No.1 of 2019 by directing the husband to pay a sum of Rs.20,000/- per month towards interim maintenance to his wife and his children on or before 7th of every succeeding English Calendar after getting proper receipt from the wife and Rs.15,000/- towards the litigation expenses within one month from that order. Being aggrieved the husband has filed C.R.P. No.2161 of 2020 before this Court seeking for to set aside the aforesaid order and the wife has filed C.R.P. No.85 of 2021 to enhance the interim maintenance as prayed for in I.A. No.1 of 2019 by setting aside the aforesaid order.

3. The learned counsel appearing for the husband/petitioner would submit that the wife of the petitioner/respondent herein is used to pick up quarrel with him for a silly matter without any valid reason and started leaving matrimonial home and staying at parental home. The wife has refused to take care of the mother of the petitioner and insisted to leave his mother in his sisters' home. Further, the petitioner is not allowed to

see his children in the house after occupying by them. Therefore, the petitioner/husband has filed the HMOP No.36 of 2019 on the file of the Principal Sub-Court, Hosur, for dissolution of their marriage on the ground of cruelty and harassment. It is further submitted that the husband/petitioner and his mother are living separately in a rented house in view of the occupation of possession by the wife/respondent along with her parent and children in his own house and also paying home loan and other loan to the tune of Rs.46,000/- per month. Further, even if the Trial Court in its order dated 28.10.2020 in paragraph No.10, the learned Judge is inclined to order a sum of Rs.15,000/- towards interim maintenance, per contra, the husband/petitioner herein is inadvertently directed to pay a sum of Rs.20,000/- per month towards interim maintenance to his wife/respondent herein in the operative portion in para No.11 of the said order. Under such circumstances, it makes clear that interim maintenance has not been awarded properly and the same is liable to be set aside and the interim maintenance to the respondent/wife is unsustainable either in law and on fact as the Trial Court has not considered the expenses and situations faced by the husband/petitioner herein.

4. On the other hand, the learned counsel appearing for the wife/petitioner would submit that the husband of the petitioner is a software engineer and drawing fanciful salary thereby leading a luxurious life. Hence, the petitioner being a wife, is need to live on par with her husband life style and moreover, the petitioner cannot maintain her life and to meet out the education expenses and other expenses with the paltry sum of Rs.20,000/- per month. Hence, the award of the maintenance of Rs.20,000/- is to be enhanced as prayed for in the Interlocutory Application in I.A. No. 1 of 2019. It has been further submitted that the interim maintenance has not been paid by the husband even after the order dated 28.10.2020 passed by the Principal Sub-Court, House in I.A. No.1 of 2019.

5. Heard, the learned Counsel appearing for both sides as well as perused the material available on record.

6. On a perusal of the record, it is seen that the Court below after taking into consideration of the oral and documentary evidence let in by both parties, has specifically ordered in para No.10 as under:

“ Hence considering the present Rupee Value, inflation rate, cost of commodities and frequent price rise definitely the petitioner may require not less than Rs.20,000/- per month to lead a minimum comfortable life and support for the petitioner and her children.”

After coming into conclusion that the petitioner/wife may require not less than Rs.20,000/-, by typographical error, the amount of Rs.15,000/- has been mentioned instead of Rs.20,000/- in the subsequent line of the Paragraph No.10 in the said order. However, the learned Judge has ordered in the operative portion correctly a sum of Rs.20,000/- as interim maintenance in paragraph No.11. Hence, it cannot be considered that the award of interim maintenance is not properly fixed. As the award amount has wrongly been typed in inadvertent manner, the interim maintenance is confirmed herein as Rs.20,000/- and not Rs.15,000/-. As the award of Rs.20,000/- per month as interim maintenance cannot be considered as lowest amount and the same is awarded in the proper manner after considering present situation. Hence, the award of interim maintenance passed by the Court below is hereby confirmed. Further, it has been submitted that the interim maintenance and legal expenses have not been paid till date by the husband to his wife even after the Court

below passed the order dated 28.10.2020. Hence, the husband is directed to pay a sum of Rs.1,15,000/- including legal expenses of Rs.15000/- to his wife within one month from the date of receipt of copy of this order. The remaining amount of interim maintenance shall be paid by two instalments in the succeeding months.

7. With the above directions, this Court is not inclined to interfere with the order passed by the Court below, both Civil Revision petitions are dismissed and the order dated 28.10.2020 made in I.A. No.1 of 2019 in HMOP No.36 of 2019 is hereby confirmed. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

सत्यमेव जयते

01.02.2021

Lbm

Index: Yes/No.

Speaking/Non-Speaking order

Internet: Yes/No.

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C.R.P.(PD) No.2161 of 2020

V.BHAVANI SUBBAROYAN, J.,
lbm

To:

The Principal Sub-Court,
Hosur, Krishnagiri District.



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