



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2021

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Cr1.R.C.No.831 of 2017

M.S.Khadher Basha

...Petitioner/Respondent

Vs

F.Ayisha Husnara

...Respondent/Respondent

PRAYER: This Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C., against order passed by the III Additional Family Court at Chennai dated 08.03.2017 in M.C.No.93 of 2013 directing the petitioner herein to pay a sum of Rs.15,000/- per month from the date of petition viz., 21.02.2013.

For Petitioner : Mr.K.J.Parthasarathy

For Respondent : Mrs.Sudharshana Sundar

O R D E R

This Criminal Revision Case has been filed by the petitioner/husband challenging the order passed by the learned III Additional Family Court Judge, dated 08.03.2017, in M.C.No.93 of 2013 directing him to pay a sum of Rs.15,000/- p.m., as maintenance to the respondent/wife from 21.02.2013.

2. The marriage between the petitioner and the respondent was not denied. After their marriage, due to some matrimonial discard, they got separated. The petitioner did not deny his liability to pay maintenance to the respondent in his capacity as her husband. The One and only contention now raised before this Court is that the learned family Court Judge has not taken into consideration of the financial capacity of the petitioner while fixing the maintenance amount at Rs.15,000/- p.m. The learned counsel for the petitioner filed certain supporting documents to strengthen his contention that the petitioner did not have income for giving maintenance at Rs.15,000/- p.m., to his wife/respondent.

3. As per the affidavit with declaration filed by the



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petitioner, that the petitioner has declared that his monthly income as Rs.25,000/- p.m. But, he has stated in the affidavit of disclosures submitted to the Income Tax Department that he is assessed to Income Tax. It is submitted by the learned counsel for the petitioner that the petitioner is a Partner in a Leather Industry and the Leather Industry alone is assessed to Income Tax. Even from his own disclosure of income, it is seen that the Firm, in which he is the Partner, has got an annual turnover of Rs.1,48,00,625/-. But, he has stated that the said turnover of the Firm generates only a net income of Rs.3,54,349/-. It is difficult to understand that a Firm which is having a turn over of Rs.1.5 Crores, is getting only a profit of Rs.3,54,349/-. So it is understandable that the petitioner has given some low figures just to create a make-belief that he has no sufficient income. But the fact remains that the petitioner lives a luxurious life and even for some of his ailment, he had taken treatment in a premier hospital in the city and he has paid medial bills up to Rs.10,00,000/-. No person having just Rs.25,000/- as monthly income could meet out such a huge medical expenses, by opting to admit in a costly Hospital. It is true that while fixing the maintenance amount, the Court has to take into consideration of the financial capacity of the husband. But when husbands like the petitioner hides their income and take an unrealistic stand about the income, the Court cannot accept the figures on the face of it without adverting to find out the real financial capacity of the petitioner.

4. In this case, the petitioner is a Partner in a Leather Industry and hence he is an Industrialist. Only because he got good income his Leather Industry, he could afford to live a luxurious life and get treatment from a Hospital like Appollo Hospital. His Firm is also generating good income and subject to income tax. Such consideration cannot be taken likely while enhancing the maintenance amount to the respondent/wife. It is not the submission of the petitioner that the respondent is employed elsewhere or she generates any income to maintain herself.

5. The learned Family Judge has fixed a sum of R.15,000/- p.m., towards maintenance amount to the wife and the said amount in my opinion is very moderate and reasonable in the existing cost of living. When a husband could afford to live a better life, he cannot allow his wife to live in penury.

6. The learned Family Court Judge is correct in appreciating the factual and financial and social position of the parties, while fixing the maintenance amount at Rs.15,000/- p.m., and the said amount is very reasonable. Therefore, I find no reason to interfere with the order passed by the Family Court and hence, this Criminal Revision Case is liable to be dismissed.



7. In the result, this Criminal Revision Case is dismissed and the order passed by the learned III Additional Family Court Judge, Chennai, in M.C.No.93 of 2013 dated 08.03.2017 is confirmed.

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Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

ssn

To

1. The III Additional Family Court,
Chennai.
2. The Section Officer,
Criminal Section,
High Court, Madras.

+2cc to Mr.K.J.Parthasarathy, Advocate, S.R.No.60943

+1cc to Mr.Sudharsana Sundar, Advocate, S.R.No.60762

Cr1.R.C.No.831 of 2017

SVI (CO)
RGA(15/12/2021)