

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1352 of 2019

and

Crl.M.P.No.18063 of 2019

Jayaprakash
S/o.Kamalakannan

... Petitioner

Vs.

S.Padmapriya
W/o.K.Jayaprakash

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w. 401 of Cr.P.C. to call for the records pending on the file of the FAC I Additional Principal Family Judge, Chennai, in M.P.No.593 of 2019 in M.C.No.159 of 2019 order dated 12.11.2019 set aside the same.

For Petitioner : Mr.S.Venkatesh

For Respondent : Mr.N.Dorai Kannan

O R D E R

The petitioner is the husband and respondent is the wife. The respondent filed a petition before the I Additional Family Court, Chennai, in M.C.No.159 of 2019 under Section 125 Cr.P.C. During the pendency of the maintenance case, after enquiry, the Judge, Family Court, passed an award of Rs.15,000/- per month as monthly interim maintenance till the disposal of the main case. Challenging the said order, the petitioner has filed the present petition.

2. Learned counsel for the petitioner would submit that the petitioner transplanted the kidney and the respondent left from the matrimonial due to failure of kidney. Therefore, she is not entitled for maintenance. Further, it is not proved that the petitioner is earning Rs.2,50,000/-, out of two clinic and due to kidney failure, he is not running the clinic now, he himself spending Rs.30,000/- for his treatment. Under these

circumstances, the petitioner is not in a position to pay the monthly maintenance to the respondent. Therefore, the order passed by the learned Judge, I Additional Family Court, Chennai, may be modified.

3. Learned counsel for the respondent would submit that even before marriage the respondent had pre-existing illness like kidney problem and suppressed the said fact and due to dispute between them, they are living separately and there is no means to maintain herself and therefore, she approached the trial Court for interim maintenance. The Judge, Family Court, considering the entire facts and documents produced before it and taking note of the fact that the petitioner was running the clinic and based on the income tax return, found that the petitioner is earning not less than Rs.40,000/- and considering the income of the petitioner, ordered Rs.15,000/- per month for maintenance, which is very reasonable and therefore, there is no merit in this case and it is liable to be set aside.

4. Heard and perused the records.

5. The relationship between the parties is not in dispute and they are living separately. It is the case of petitioner that the respondent has sufficient means to maintain herself. The respondent established before the Family Court that the petitioner is a earning member and is a Doctor, running two clinics and paying income tax. Therefore, the Family Court, considering the entire facts and circumstances, passed the interim maintenance payable till the disposal of the main petition.

6. Learned counsel for the petitioner would submit that the petitioner is not running the clinic at present. However, the matter is left open to the Judge to decide the fact in main case as to whether the petitioner is running the clinic even after filing the petition for maintenance. Therefore, considering the facts and circumstances and status of the parties, the Family Court ordered interim maintenance of Rs.15,000/-, which is very reasonable. This Court, does not find any illegality or infirmity in the order passed by the trial Court.

7. Since the petitioner has not complied with the interim order passed by the Court below, the petitioner is directed to pay all the arrears to the respondent within a month, and the petitioner is directed to comply with the order passed by the Family Court in accordance with law without any further delay failing which the Judge, Family Court is directed to execute the order passed by the Family Court in accordance with law.

8. Accordingly, this Criminal Revision petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

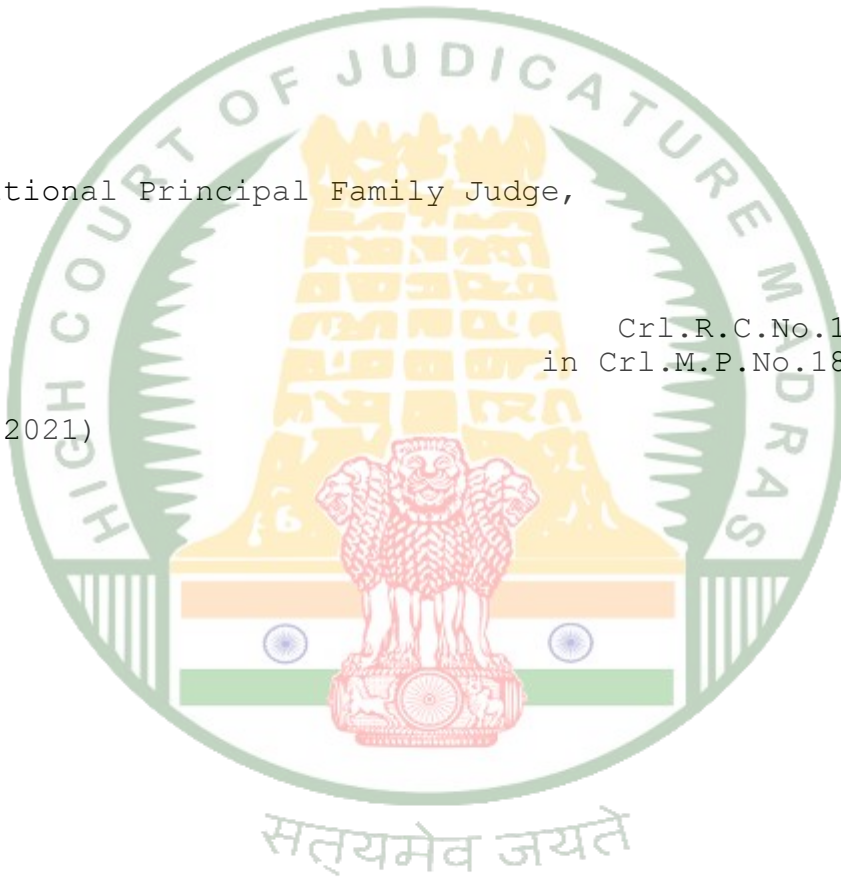
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To

The I Additional Principal Family Judge,
Chennai.

KV (CO)
RMP (19/02/2021)

Crl.R.C.No.1352 of 2019
in Crl.M.P.No.18063 of 2019



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