

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(PD) No.3904 of 2018
and C.M.P.Nos.21674, 21679 of 2018

Sugantha Priya ... Petitioner

Vs

1.D.Kirubakaran

2.V.Prakash

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, challenging the fair order and decree passed in I.A.No.498 of 2016 in H.M.O.P.No.472 of 2015 on the file of Learned Subordinate Judge, Poonamallee dated 09.07.2018.

For Petitioner : Mr.T.S.Rajamohan

For Respondents : No Appearance

ORDER

This Civil Revision Petition is filed challenging the fair order and decree passed in I.A.No.498 of 2016 in H.M.O.P.No.472 of 2015 on the file of Learned Subordinate Judge, Poonamallee dated 09.07.2018, thereby dismissing the petition for interim maintenance and also to reimburse the sum of Rs.50,000/- towards hospital expenses.

2. The petitioner is the wife and the first respondent is the husband in H.M.O.P.No.472 of 2015. The first respondent filed a petition for dissolution of marriage on the ground of cruelty and adultery.

3. While pending the divorce petition, the petitioner filed interim maintenance petition for herself and her minor son. According to the petitioner, when the petitioner and the first respondent were working together in Ford India Company Limited situated in Maraimalai Nagar under a same team, during in the year 2013 they loved each other and get marriage. Due to their wedlock they give birth to a male child on

11.06.2015. Even before gave the birth to a male child she was driven out from the matrimonial home.

4. In fact, the first respondent did not even spend single paisa for her medical expenses. The first respondent is a B.E., graduate and he is drawing sumptuous salary and he is a duty bound to maintain the petitioner as well as the male child. However, the Court below dismissed the petition for the reason that the petitioner is employed and she has already reimbursed the medical expenses which was occurred towards the birth of male child from her employment.

5. The first respondent is the husband and he is a duty bound to maintain his wife and his child born to him. Admittedly, the petitioner is working in a clerical level and the first respondent is an Engineer and drawing higher salary than the petitioner. Though the first respondent / husband filed divorce petition on the ground of cruelty and adultery, the husband is the duty bound to maintain his wife and his child. In fact, the first respondent filed the divorce petition, while pending the divorce

petition, the petitioner filed a petition in I.A.No.219 of 2016 praying for DNA test. The said petition was dismissed by the Trial Court by a fair and decreetal order dated 15.03.2017. The said order also confirmed by this Court in C.R.P.No.2342 of 2017.

6. Therefore, this Court is of the considered opinion that the first respondent is a duty bound to maintain his minor child. Now, the minor child is aged about 6 years and he is in the custody of the petitioner herein. Since, the petitioner is working in a clerical level and drawing reasonable salary to maintain herself, she is not entitled for interim maintenance. However, her minor son is entitled for interim maintenance till the pendency of the divorce petition. Insofar as the medical reimbursement is concerned while giving birth to a male child the petitioner already claimed from her employment. Therefore, the medical reimbursement is also not entitled from the first respondent herein.

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7. In view of the above, Order in I.A.No.498 of 2016 in H.M.O.P.No.472 of 2015 on the file of the Learned Subordinate Judge,

Poonamallee dated 09.07.2018 is set aside, insofar as the interim maintenance for minor son alone.

8. Accordingly, this Civil Revision Petition is partly allowed. The first respondent is directed to pay a sum of Rs.7500/- (Rupees Seven Thousand Five Hundred only) as interim monthly maintenance till the disposal of the H.M.O.P.No.472 of 2015 on the file of the learned Subordinate Judge, Poonamallee. No order as to costs. Consequently, the connected miscellaneous petitions are closed.

02.07.2021

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
rna

To

The Subordinate Judge,
Poonamallee.

G.K.ILANTHIRAIYAN. J,

rna



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