



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2021

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD) No.1736 of 2021

and

C.M.P. (MD) No.9255 of 2021

WEB COPY

R.Sundhararajan .. Petitioner/Respondent/Petitioner
-vs-
S.Vembi .. Respondent/Petitioner/Respondent

Prayer :- Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 09.09.2021 allowing interim maintenance to the wife and major son passed in I.A.No.110 of 2020 in H.M.O.P.No.50 of 2018 on the file of the Sub-Court, Paramakudi.

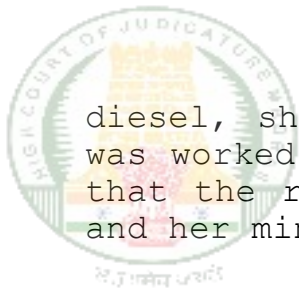
For Petitioner : Mr.D.Nallathambi

ORDER

The petitioner/husband has filed this Civil Revision Petition challenging the order passed by the learned Sub Judge, Paramakudi granting interim maintenance of Rs.5,000/- to his wife and son and a sum of Rs.10,000/- towards legal expenses.

2.The facts in brief are as follows. The petitioner/husband has filed a petition for divorce against his wife, the respondent herein on the ground of desertion in H.M.O.P.No.50 of 2018 on the file of the learned Sub Court, Paramakudi. The respondent/wife had filed her counter and thereafter, since the matter was pending, the respondent/wife, who was taking care of the minor child, had taken out an application under Section 24 of the Hindu Marriage Act seeking interim maintenance in I.A.No.110 of 2020. She had contended that the petitioner herein had not taken any steps to maintain both the respondent, his wife and his minor child. The respondent had contended that she is a home maker and has no independent income and that she and her son, who is a school going child, did not have any financial assistance. She would submit that the respondent was working as a Post Graduate Teacher and despite earning a handsome monthly income has not given a penny to the respondent and her child.

3.The petitioner herein has countered the said application stating that the respondent herein owns a tractor and a trailer, which she was utilizing to transport brick and sand out of which, she was earning a monthly income of not less than 18,000/-. In fact, during the Tamil months of Aadi and Aavani, she would earn a sum of Rs.9,000/- per day and after deducting the expenses towards



diesel, she would be left with a sum of Rs.3,000/- per day, which was worked out to a sum of Rs.90,000/- per month. He would contend that the respondent's income is sufficient to take care of herself and her minor child.

4.The petitioner had marked the documents pertaining to the ownership of the tractor and trailer in support of his case. The learned Subordinate Judge, Paramakudi, on considering the evidence and the arguments, held that the petitioner herein was liable to pay a sum of Rs.5,000/- per month as maintenance to the respondent and her minor child and in addition to that, he shall pay a sum of Rs.10,000/- towards legal expenses. It is this order, that is, challenged before this Court.

5.The learned counsel for the petitioner would reiterate the contentions raised in the counter filed to the impugned petition.

6.Heard the learned counsel for the petitioner.

7.The petitioner, who has come forward with a contention that the respondent is financially well settled, has not proved the same except for filing the documents relating to the ownership of the vehicles. He has not substantiated his contention that the respondent herein was earning a monthly income of Rs.18,000/-. Further, the petitioner, who is the husband of the respondent and father of the minor son, is legally bound to maintain his wife and child. Admittedly, he has not paid a single penny to the respondent and her minor child. It is to be taken note of that the respondent/wife has not filed the application for maintenance as soon as the petition for divorce was filed. On the contrary, she has waited for two years before filing such an application. It appears that the respondent/wife had wanted a rapprochement and therefore, had not tried to precipitate matters. The petitioner has not denied the contention of the respondent that he is a Post Graduate Teacher. Therefore, having the capacity to maintain his wife and child, this Court is of the opinion that, the maintenance amount and the litigant expenses awarded is very meagre and no exception can be taken to the order passed by the learned Subordinate Judge, Paramakudi.

8.In the result, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note:-

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

The learned Sub Judge,
Paramakudi.

+1 CC to M/s.D. NALLATHAMBI, Advocate (SR-34490[F] dated 15/11/2021)
C.R.P. (PD) (MD) No.1736 of 2021
Dated: 12.11.2021

KS (CO)
GC/NS (25.11.2021) 3P 3C