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Crl.R.C.No.362 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.362 of 2020

and

Crl.M.P.No.2670 of 2020

Balamurugan

... Petitioner

Versus

1.Rekha

2.Mahathi -Minor Baby

rep.by her mother and natural guardian

the 1st respondent Rekha

... Respondents

Criminal Revision Case filed under Sections 397 r/w 401 of Criminal Procedure Code to call for the records in M.C.No.386 of 2016 pending on the file of the V Additional Judge, Family Court, Chennai and to set aside the order passed in M.P.No.827 of 2019 in M.C.No.386 of 2016 dated 28.01.2020, directing the revision petitioner to pay sum of Rs.20,000/- to the 1st respondent and Rs.10,000/- to the second respondent in the above revision per month towards the interim maintenance from 10.09.2019.

For Petitioner : Mr.K.Venkateswaran

For Respondents : Mr.B.Jagannath



ORDER

The Criminal Revision Case is preferred against the order dated 28.01.2020 passed in M.P.No.827 of 2019 in M.C.No.386 of 2016 by the learned V Additional Principal Judge, V Additional Family Court, Chennai.

2. The petitioner is the husband, the first respondent is the wife and the second respondent is the minor daughter of the petitioner. The respondents 1 and 2 herein filed a maintenance case in M.C.No.386 of 2016 under Section 125 Cr.P.C., before the Family Court, Chennai seeking maintenance. Pending maintenance case, the respondents filed a petition under Section 125 Cr.P.C in M.P.No.827 of 2019 seeking interim maintenance. The learned V Additional Principal Judge, V Additional Family Court, Chennai, after appreciating the entire materials, partly allowed the petition and ordered a sum of Rs.20,000/- per month to the first respondent and Rs.10,000/- per month to the second respondent as interim maintenance. Challenging the said order, the petitioner has preferred the present revision.

3. The learned counsel for the petitioner submitted that the first respondent/wife is a post graduate and working in the I.T.Company and



earning good income, therefore, she is not entitled for getting any maintenance from the petitioner. The learned Judge, Family Court without considering the said facts, ordered a sum of Rs.20,000/- per month to the first respondent/wife as interim maintenance, which warrants interference of this Court.

4. Per contra, the learned counsel for the respondents submitted that the petitioner has not filed any documentary evidence before the Court below to prove the employment and income of the first respondent. The Family Court, after appreciating the entire materials has rightly ordered interim maintenance to the respondents. There is no merit in the revision and the same is liable to be dismissed.

5. Heard the learned counsel on either side and perused the materials available on record.

6. It is surprise to note that the maintenance case is pending from the year 2016. Since the Family Court has not disposed of the maintenance case, the respondents filed a miscellaneous petition in M.P.No.827 of 2019 before



the Court below seeking interim maintenance. The Court below, after considering the provisions under Section 125 Cr.P.C., ordered interim maintenance in the year 2020. The scope of Section 125 Cr.P.C., is summary in nature and its object is to decide the case within a short span of time. It is unfortunate to state that in the case on hand, the maintenance case and interim maintenance case are pending from years together, which would clearly defeat the object of Section 125 Cr.P.C.

7. It is settled proposition of law that the revision would not lie against any interlocutory application/interim order. Since the maintenance case is pending from the year 2016, both the parties are at liberty to disclose their Affidavit of Assets and Liabilities before the Court below as per the decision of the Hon'ble Supreme Court in the case of ***Rajnesh vs. Neha and another*** reported in ***(2021) 2 SCC 324***.

8. Considering the facts and circumstances and also considering the fact that the petitioner has not produced any documentary evidence to substantiate that the first respondent is working in I.T Company and she is able to maintain herself, this Court is not inclined to interfere with the order



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of the Court below. Under these circumstances, this Court cannot decide whether the interim order of maintenance granted is justifiable or not. Therefore, this Court does not find any perversity or infirmity in the order passed by the Court below and there is no merit in the revision and the same is liable to be dismissed. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

9. However, both the parties are at liberty to file their Affidavit of Assets and Liabilities as stated in the Enclosure I to III of the judgment in ***Rajnesh case*** (referred to supra) before the Court below within a period of three weeks. On receipt of the same, the learned Judge, Family Court is directed to dispose of the maintenance case in M.C.No.386 of 2016 within a period of two months from the date of receipt of a copy of this order.

13.12.2022

Index : Yes/No
Speaking Order/Non Speaking Order
ms



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P.VELMURUGAN, J.

ms

To

The V Additional Principal Judge,
V Additional Family Court,
Chennai.

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and
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