



Crl.R.C.No.712 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2022

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.No.712 of 2018

K. Haridas

... Petitioner

Vs.

Padmini

... Respondent

Prayer: Criminal Revision Case is filed under Section 397 r/w 401 of Cr.P.C., to set aside the order dated 13.04.2018 passed in M.C.No.248 of 2013 by the IV Additional Family Court, Chennai.

For Petitioner : Mr. U. Nagaraja Melanta

For Respondent : Mr. S.S. Karthikeyan

ORDER

This petition is filed challenging the order dated 13.04.2018 passed in M.C.No.248 of 2013 by the IV Additional Family Court, Chennai.



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5. The present Crl.M.P.No.6254/2022 was filed for restoration of the Crl.R.C., this Court to decide the revision petition on merit, allowed the restoration and the revision case was taken up for final hearing.

6. Learned counsel appearing for the petitioner states that the petitioner at the time of his marriage with the respondent was serving as a Doctor in Army Medical Corps (AMC) and after his retirement, he joined Kasturba Medical College Hospital, Manipal, Karnataka. Now, he has retired and depending upon his brother and he has no source of income. He is not drawing any pension and therefore, he is not capable of paying the maintenance amount as ordered by the trial Court.

7. Per contra, learned counsel for the respondent submits that the petitioner lived with the respondent for a very short time and thereafter, under the guise of joining duty in Army, she deserted her and the three month old female child. With great difficulty, the respondent/wife has brought up the female child. The trial Court after considering the entire



facts, as pleaded by the respondent/wife and the petitioner/husband, as against the claim of Rs.50,000/- as maintenance per month, awarded Rs.20,000/- per month.

7(i). The conduct of the petitioner not disclosing his true income, as a pensioner and as an independent qualified medical practitioner, taken note by the trial Court and also observed that just because the respondent has rise her daughter and now, the daughter is settled in Canada, cannot be a ground to shirk the responsibility as a dutiful husband.

7(ii). The learned counsel for the petitioner pleads that the petitioner is nearly 69 years old and he has lost his earning capacity. Hence, seek for leniency.

8. Learned counsel for the respondent states that as against the order of High Court granting conditional stay directing the petitioner to deposit 50% of the arrears and Rs.3,000 per month, he preferred SLP to the Supreme Court and the same was dismissed. Thereafter, the revision petition also dismissed for default. Later, it was restored on condition he should continue to pay Rs.10,000/- per month which he has not complied



and as against total arrears of Rs.11.10 lakhs as on date, only Rs.7.20 lakhs is paid. This also indicates the conduct of the petitioner herein and who is no inclined to pay the maintenance to his wife as ordered by the Court.

9. This Court finds that the petitioner has deserted his wife and minor daughter during his young age, he was ordered to pay maintenance of Rs.20,000/- to his wife from April 2013. Now after lapse of 9 years, pleads that he has lost his earning capacity and therefore, he cannot pay maintenance. Even if it is so, it is for him to approach the Family Court for modification and alteration of the maintenance fixed. Till then the arrears of maintenance from April 2013 to till date, liable to be paid.

10. The maintenance of Rs.20,000/- per month with annual increase of Rs.1,500/- is not at all excessive in the given facts and circumstances. Accordingly, the order of the Family Court fixing the maintenance of Rs.20,000/- with increase of Rs.1500/- per month is confirmed.



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Dr.G.JAYACHANDRAN,J.

11. Considering the fact, the revision petition is dismissed.

11.07.2022

AT
Internet : Yes
Index : Yes/No
Speaking / Non-speaking

To
1.The IV Additional Family Court, Chennai.

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