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Crl.RC.No 884 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2022

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THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.RC No. 884 of 2020
and CRL.MP.No. 6257 of 2020

M.Venkatachalam

... Petitioner

VS.

1. S.Amudha
W/o. Venkatachalam

2. Minor. Subiksha
D/o. Venkatachalam

3.Minor. Kesavi
D/o. Venkatachalam

Minors are represented by their
Guardian Mother Amudha

... Respondents

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 CrPC to set aside the order dated 18.03.2020 passed in M.C.No. 81 of 2017 by the Family Court, Erode and pass such further or other orders.

For Petitioner : Mr.M.Karthik

For Respondents : No representation.



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ORDER

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Aggrieved by the order dated 18.03.2020 in M.C.No. 81 of 2017 passed by the Family Court, Erode, the present criminal revision petition is filed.

2. The petitioner is the husband, the 1st respondent is the wife, the 2nd and 3rd respondents are children born to the petitioner and the 1st respondent. The respondents herein have filed a maintenance case before the Family Court, Erode in M.C. No. 81 of 2017 against the petitioner herein. The trial Court after enquiry ordered the petitioner herein/husband to pay a sum of Rs.10,000/- to the 1st respondent/wife and to pay a sum of Rs. 5,000/- each to the 2nd & 3rd respondents/children toward maintenance.

3. The learned counsel for the petitioner would submit that the 1st respondent has not proved the income of the petitioner/husband before the trial Court. The trial Court without ascertaining the exact monthly income of the petitioner herein had fixed the notional income of the petitioner as Rs.60,000/- and ordered to pay the monthly maintenance of Rs.10,000/- to the 1st respondent/wife and to pay a sum of Rs. 5,000/- each to the 2nd & 3rd respondents/children, which is against the provisions of law



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and the same is liable to be set aside.

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4. No representation for the respondents. Heard the learned counsel for the petitioner and perused the documents available on record.

5. Admittedly, the petitioner herein is the husband, the 1st respondent is the wife and 2nd & 3rd respondents herein are the children born due to the wedlock of the petitioner and the 1st respondent. Relationship of the parties are not in dispute and the paternity of the children is also not in dispute.

6. A perusal of the order would show that as per the statement of the petitioner herein before the trial Court, he had purchased a three floor building consisting of four houses thorough auction in the year 2016 and he is receiving rent from the said houses. The petitioner has also stated that he has been running a bakery business in the name S.K. Bakery near Hindu Educational Institution, Erode. Therefore, the trail Court after considering the above statement of the petitioner, has fixed the notional income at Rs.60,000/- and ordered to pay a sum of Rs.20,000/-(in total) to



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the respondents as monthly maintenance. Though the learned counsel appearing for the petitioner has strongly objected the notional income fixed by the trial Court, the learned counsel has not filed any documents to disprove the notional income fixed by the trial Court.

7. In the absence of any documents to disprove the notional income fixed by the trial Court and taking into consideration of cost of living as on date, the contentions made by the learned counsel for the petitioner cannot be accepted. This Court find no perversity in the order passed by the Family Court, Erode in M.C.No. 81 of 2017, dated 18.03.2020.

8. In the result, the Criminal Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes / No
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P.VELMURUGAN, J.

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