



Crl.R.C.No.923 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.923 of 2020
and
Crl.M.P.No.6466 of 2020

T.Gopi

... Petitioner

Versus

1.M.Jayasudha @ Bhavani

2.G.Kanishka

Represented by her mother,
1st respondent herein.

... Respondents

Criminal Revision Case filed under Sections 397 r/w 401 Cr.P.C to call for the records pertaining to the order dated 15.10.2019 passed in M.C.No.279 of 2015 by the learned V Additional Family Court and quash the same with regard to award of maintenance of Rs.10,000/- ordered to be paid to the first respondent/wife herein from 25.06.2015.

For Petitioner : Ms.N.Fidelia

ORDER

The Criminal Revision Case is preferred against the order dated 15.10.2019 passed in M.C.No.279 of 2015 by the learned V Additional Principal Judge, V Additional Family Court, Chennai.



2.The petitioner is the husband, the first respondent is the wife of the petitioner and the second respondent is their minor daughter. The respondents filed M.C.No.279 of 2015 on the file of the learned V Additional Family Court, Chennai. The learned Judge, after appreciating the entire materials ordered a sum of Rs.10,000/- per month to the first respondent and Rs.5,000/- per month to the second respondent as 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 at the time of filing the maintenance case itself, suppressed the fact that she is working as Anganwadi worker and getting a sum of Rs.10,000/- as salary. He further submitted that in the year 2017 itself she was getting Rs.10,000/- per month and now she might have got more salary. He further submitted that the first respondent herself voluntarily left the matrimonial home without any valid reason. The first respondent has not come with clean hands and she is not entitled for any maintenance amount from the petitioner. He further submitted that the petitioner is always ready and willing to maintain his minor daughter. The Family Court failed to appreciate the above fact that the first respondent is an Anganvadi worker and



she is able to maintain herself but ordered maintenance to the working woman.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Admittedly, the relationship between the parties and paternity of the minor child are not in dispute. Both the parties are living separately and the same is also not in dispute. Though the petitioner filed a petition for restitution of conjugal rights which ended against him. The learned counsel for the petitioner taken a stand that the first respondent/wife voluntarily left the matrimonial home without any valid reason. Further, the first respondent is a working woman and she is able to maintain herself.

6. No doubt the ingredients of Section 125 Cr.P.C is that the wife who is not able to maintain herself, if the husband is having sufficient means, it is the duty of the husband to maintain her wife as if she is residing along with him. As per the decisions of the Hon'ble Supreme Court in the case of ***Rajnesh vs. Neha and another*** reported in (2021) 2 SCC 324 wife is entitled



to get maintenance on par with the status of the husband. Admittedly, in the case on hand, the petitioner is working as an engineer and he is getting a sum of Rs.40,000/- as monthly salary. However, as on date the petitioner has not produced the salary slip to show that he is getting meagre amount.

7. On a perusal of the records, it is seen that the petitioner is working as an engineer and getting more than Rs.40,000/- as salary and he driven her wife from the matrimonial home. Both the parties are now living separately. Since she has no option except to get employment for surviving, she joined in the Aganvadi and getting Rs.10,000/- and after deduction she is getting only Rs.8,000/-.

8. Considering the lost of living and raising price index, it is very difficult to maintain herself and the child with the meagre amount of Rs.10,000/-. As per the decision of the Hon'ble Supreme Court, since the petitioner is working as an engineer and getting more than Rs.40,000/-, the first respondent/wife and child are entitled to get maintenance from the petitioner.

9. In the light of the above, this Court does not find any perversity or



Crl.R.C.No.923 of 2020

infirmity in the order of 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.

14.12.2022

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

To

The V Additional Principal Judge,
Chennai.



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P.VELMURUGAN, J.

ms

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