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Crl.R.C.No.1412 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1412 of 2022

and

Crl.M.P.No.15685 of 2022

Manimaran

... Petitioner

Versus

1.Deepa

2.Minor Riyakoshal

Represented by her Natural Guardian/Mother/1st respondent

Mrs.Deepa

... Respondents

Criminal Revision Case filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order made in Crl.M.P.No.3820 of 2021 in M.C.No.23 of 2019 dated 12.05.2022 passed by the learned Judicial Magistrate No.I, Kallakurichi.

For Petitioner : Mr.G.Balamanikandan

For Respondents : Mr.S.Prasanna

ORDER

This Criminal Revision has been preferred challenging the order dated 12.05.2022 passed in Crl.M.P.No.3820 of 2021 in M.C.No.23 of 2019 by the learned Judicial Magistrate No.I, Kallakurichi.

2. Heard the learned counsel for the petitioner, the learned counsel for



the respondents and also perused the materials available on record.

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3.The petitioner is the husband, the first respondent is wife and the second respondent is the minor daughter. The respondents herein filed a petition under Section 125 Cr.P.C before the learned Judicial Magistrate No.I, Kallakurichi in M.C.No.23 of 2019 seeking maintenance. After due enquiry, the learned Magistrate ordered a sum of Rs.5,000/- to each of the respondents per month as monthly maintenance. Though the petitioner has failed to pay the maintenance as ordered by the Court below, the respondents have filed C.M.P.No.3820 of 2021 for recovery of arrears of maintenance. The said petition was allowed by attaching $2/3^{\text{rd}}$ amount of the petitioner's salary. Challenging the said order, the petitioner has filed the present revision.

4. The learned counsel for the petitioner submitted that as per the decision of the Hon'ble Supreme Court 25% of the net salary of the husband would be just and proper to be awarded as maintenance to his wife and his children. Whereas, in the case on hand the petitioner is getting net salary of Rs.18,000/- after making some deduction from his gross salary of Rs.23,000/-. The learned Magistrate failed to consider the same, simply



ordered a sum of Rs.5,000/- to each of the respondents as monthly maintenance, which is not only excessive but also against the dictum laid down by the Hon'ble Supreme Court.

5. Admittedly, the relationship between the parties are not in dispute and they are living separately and the same is also not in dispute. Further, the petitioner has not proved that the respondents have sufficient means and they are able to maintain themselves. Further, the petitioner himself admitted that he is getting salary of Rs.23,000/- per month.

6. In light of the above facts and also considering the cost of living prevailing as on date, the Court below ordered Rs.5,000/- to each of the respondents per month as maintenance, which is not exorbitant and the same is reasonable one. Therefore, this Court does not find any perversity or infirmity in the order passed by the Court below and hence, the same is liable to be dismissed.

7. In view of the above, this Criminal Revision Case is dismissed and



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order dated 12.05.2022 passed in Crl.M.P.No.3820 of 2021 in M.C.No.23 of 2019 by the learned Judicial Magistrate No.I, Kallakurichi is confirmed.

Consequently, connected miscellaneous petition is closed.

17.10.2022

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

To

1.The Judicial Magistrate No.I,
Kallakurichi.



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P.VELMURUGAN, J.

ms

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