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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.R.C.NO.889 OF 2021

J.M.Elangovan

... Petitioner

Versus

C.Saranya

... Respondent

PRAYER:-

Criminal Revision Case filed under Section 397 and 401 of Cr.P.C., to set aside the judgment and decree, dated 06.10.2021 made in M.C.No.23 of 2019 on the file of the Family Court, Villupuram.

For Petitioner : Mr.K.Chandru

For Respondent : No Appearance

O R D E R

This Revision Case is filed as against the order of the Family Court, Villupuram, dated 06.10.2021 in M.C.No.23 of 2019, whereby, the Family Court had awarded a sum of Rs.20,000/- per month as maintenance to the respondent/wife.

2. The learned Counsel appearing for the petitioner would submit that there was absolutely no justification on behalf of the wife to live separately and already, at the Village Panchayat she agreed that the marriage to be dissolved by mutual consent and taken her jewels and Rs.2,00,000/- as cash and had undertaken not to claim any maintenance whatsoever. In spite of it, the respondent/wife had retracted and therefore, the petitioner/husband had already filed a divorce petition and a Civil Miscellaneous Appeal, arising out of the proceedings are pending. The respondent/wife has now belatedly filed this application and without any proof as to the income, the Trial



Court has taken Rs.40,000/- per month and has fixed an exorbitant amount of Rs.20,000/- as maintenance.

3. Even though notice was sent, the respondent/wife had returned the same as unclaimed and therefore, already the service has been treated as complete and today, when the matter came up for hearing, there is no representation on behalf of the respondent/wife. As a matter of fact, the interim order already granted by this Court was also produced before the Family Court and therefore, the respondent/wife is in the knowledge of the proceedings.

4. I have considered the submissions made on behalf of the learned Counsel for the petitioner and perused the material records of the case. The petitioner is duty bound to maintain the respondent/wife. The Trial Court had taken the monthly income as Rs.40,000/- and however, fixed a sum of Rs.20,000/- per month as maintenance. As per the dictum of the Hon'ble Supreme Court of India in Kalyan Dey Chowdhury Vs. Rita Dey Chowdhury Nee Nandy [(2017) 14 SCC 200], fixing of monthly maintenance at 25% of the income would be just and fair and therefore, I hold that fixing of a sum of Rs.20,000/- is on the higher side and therefore, I am inclined to modify the same as Rs.10,000/- per month and accordingly, this Revision Case is ordered as follows:-

(i) The order of the Family Court, Villupuram, dated 06.10.2021 in M.C.No.23 of 2019 is modified that the petitioner shall pay monthly maintenance of Rs.10,000/- per month to the respondent/wife on or before 5th day of every English Calendar month;

(ii) In all other respects, the order of the Trial Court is confirmed;

(iii) Consequently, CrI.M.P.No.13692 of 2021 is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

grs



To

The Family Court,
Villupuram.

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+1cc to Mr.K.Chandru, Advocate, S.R.No.33954

CRL.R.C.NO.889 OF 2021

PM(CO)
PBS/17/06/2022