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Crl.RC.No.1389 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

Coram:

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Criminal Revision Case No.1389 of 2022 &
Crl.M.P.No.15405 of 2022

D.Sriramulu

... Petitioner

Vs.

J.Krishnaveni

... Respondent

Prayer: Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, praying to set aside the order dated 12.07.2022 made in M.P.No.931 of 2019 in M.C.No.211 of 2014, on the file of the V Addl., Principal Family Court, Chennai.

For Petitioner : Mr.K.Lavan

For Respondents : Mr.M.V.Bibin Mahesh

ORDER

The Criminal Revision Petition has been filed by the husband against the order of the trial Court granting interim maintenance. The petitioner is the husband and the respondent is the wife.



2. The brief facts of the case is that the marriage between the Couples took place on 03.03.1995 at Ayyappan Koil, Chathiram Ayanavaram, Chennai. After the marriage they lived together for some time and thereafter, the petitioner/husband had deserted the respondent/wife and the wife is living with her parents house and she has no means to maintain herself as she is unemployed and therefore, the respondent/wife filed M.C.No.211 of 2014 before the I Addl. Family Court, Chennai and the same was dismissed for default on 15.02.2018. During the year 2019, the respondent/Wife filed a petition under Section 5 of the Limitation Act along with the Restoration Petition in M.P.No.379 of 2019 and the same was allowed with certain condition on 21.12.2020, and the maintenance case was also restored. Aggrieved over the said order, the present Revision Petition has been preferred.

3. The learned counsel appearing for the petitioner would vehemently contend that the respondent/Wife is also a working woman and she is earning sufficient means to maintain herself with her own income and no need to pay the maintenance and therefore, the petition filed under Section



125 itself is not maintainable either in law or on facts. Further, the learned counsel appearing for the petitioner would contend that the petition in M.C.No.211 of 2014, was dismissed for default and subsequently, she filed a petition to condone the delay of 400 days in filing the application to restore the above MC case and at the time of filing the petition for interim maintenance, there was no MC case pending on the file of the Family Court. The learned counsel further would contend that during June 2022, the petitioner/husband was retired from service and he has to take care of his old age mother and two widowed sisters and due to his old age, he has to take care of himself and meet out his medical expenses and therefore, the petitioner is not in a position to pay the amount. Further the learned counsel would contend that the respondent/wife was in the matrimonial home only for few days and she has not done any work as dutiful wife to the petitioner/husband, more so, the respondent left the matrimonial home without any valid reason and therefore, the petitioner is not liable to pay a single amount to her.

4. The learned counsel appearing for the respondent/Wife submitted that she is working as a temporary sweeper and only getting salary below



6,000/- and with the said amount, she could not meet her day-to-day expenses and maintain herself and therefore, she filed a Maintenance case and the petitioner/husband is working in I.C.F as Grade I staff and drawing a salary of more than Rs.1,00,000/-, despite having sufficient means the petitioner/husband neglect or refuse to maintain his wife who is unable to maintain herself and on proof of such neglect or refusal liable to pay maintenance. Further, the learned counsel submitted that the Trial Court ordered only interim maintenance of Rs.8000/- per month and therefore, there is no merit in this revision and the same is liable to be dismissed.

5. Heard the learned counsel for the parties and perused the materials on record.

6. Section 125(1) Cr.P.C., provides that if a person having sufficient means neglects or refuses to maintain his wife who is unable to maintain herself, or his legitimate or illegitimate minor child, whether married or unmarried who unable to maintain themselves, or his legitimate or illegitimate child even though attain majority, where such child is, by reason of any physical or mental upnormality or injury unable to maintain herself,



or his father or mother, who are unable to maintain himself or herself on proof of such neglect or refusal liable to pay maintenance. The object of the maintenance proceedings is compelling those who can provide support to those who are unable to support themselves and who have a moral claim to be supported. Under the law, the burden is placed in the first place upon the claimants to prove that a person from whom maintenance is claimed is having sufficient means and that claimants are unable to maintain themselves.

7. Normally in a revision, the Court will not interfere with the order of the Courts below, unless there is any perversity in the appreciation of evidence or any illegality or infirmity is found in the order of the Courts below. In this case, the relationship of the parties are not in dispute. The respondent/Wife is residing separately and the same is also not in dispute. Though the Petitioner/Husband was a Central Government employee working in the ICF as Grade I staff and he has sufficient means and as per the last drawn particulars for the month of June 2022, the petitioner/husband was getting salary of Rs.99,066/- and the take home salary was Rs.98,526/- salary. Further, it is also proved by the



respondent/Wife that she is living in her parental house and she is working as temporary sweeper and getting salary below 6,000/-, from which amount she cannot maintain herself. Since as per Section 125 Cr.P.C., if the wife is unable to maintain herself and the husband despite sufficient source, neglects to maintain his wife, then she is entitled to get the maintenance. Therefore, the respondent/wife has proved that though she is employed as temporary sweeper, she has no sufficient means to maintain herself and hence, the Family Court considered the facts and circumstances of the case and has rightly awarded the claim for maintenance for the Wife a sum of Rs.8,000/- as interim maintenance, which is a very reasonable one.

8. Therefore, this Court does not find any perversity in the order passed by the Family Court and the Revision Petition filed by the Petitioner/Husband is dismissed by confirming the interim maintenance sought for by the respondent/Wife.

9. The Petitioner/Husband is directed to deposit the entire arrears of amount from the date of filing of the petition till the date of order of M.P.No.931 of 2019 before the V Addl Principal Family Court, Chennai,



within a period of one month from the date of receipt of a copy of this order, failing which, the Family Court is directed to take stringent action and execute the order in letter and spirit. Further, the Family Court is directed to communicate this order to the Wife and soon after the deposit is made by the Petitioner/Husband, the amount shall be disbursed to the respondent without insisting any formal application.

10. Further, the Family Court is directed to dispose of the main Maintenance Case itself within a period of three months from today and no extension of time would be entertained, since the proceedings under Section 125 Cr.P.C., is summary in nature.

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

14.11.2022

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WEB COPY

Crl.RC.No.1389 of 20





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P.VELMURUGAN,J.

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To

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14.11.2022

9/9