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CRP.PD.No.3397/2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRP.PD.No.3397/2019 and CMP.No.22292/2019

[Video Conferencing]

S.Velumani

.. Petitioner

Vs.

K.Maheswari

.. Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 23.07.2019 made in I.A.No.117/2018 in HMOP.No.27/2018 on the file of the learned Sub Court, Sankari.

For Petitioner	:	Mr.N.Manoharan
For Respondent	:	Mr.T.S.Arthanareeswaran

ORDER

- (1) This Civil Revision Petition is preferred against the order dated 23.07.2019 made in I.A.No.117/2018 in HMOP.No.27/2018 on the file of the Sub Court, Sankari.
- (2) The respondent is the wife and the petitioner is the husband. Petitioner married the respondent on 04.07.2014. It is admitted that there are no issues out of wedlock. The petitioner filed a petition



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for dissolution of marriage in HMOP.No.27/2018 before the Sub Court, Sankari on the ground of cruelty, dessertion and for suppressing material fact that the respondent wife cannot bear a child.

- (3) During the pendency of proceedings, the wife has filed Interlocutory Application for interim maintenance claiming a sum of Rs.30,000/- per month towards interim maintenance and a further sum of Rs.50,000/- towards litigation expenses. The said petition was partly allowed by directing the revision petitioner to pay a sum of Rs.3,000/- per month towards interim maintenance and a further sum of Rs.10,000/- towards litigation expenses.
- (4) Aggrieved by the same, the husband has preferred the above Civil Revision Petition.
- (5) Learned counsel appearing for the revision petitioner submitted that the respondent/wife had married the petitioner for the third time as she had married twice before marrying the petitioner. It is the specific case of the revision petitioner that the 1st marriage was dissolved in 2005 by directing the husband to pay permanent alimony to wife. Similarly the second marriage of respondent was



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ended in dissolution with a direction to pay permanent alimony.

The third husband namely, the revision petitioner has now filed a petition for divorce on the ground of suppression of particulars about the physical condition of the respondent/wife. It is the case of petitioner that the very object of contracting successive marriages by respondent is to extract money by way of maintenance and that the Lower Court failed to consider the conduct of respondent.

- (6) The application for interim maintenance was allowed as the marriage between the petitioner and the respondent is not in dispute. Merely because the respondent/wife had contracted marriages and obtained divorce from first and second husbands, the marital status of respondent as a wife of petitioner will not change. As a husband, the petitioner has to maintain the respondent and the application filed for interim maintenance cannot be dismissed by considering the previous marriage contracted by the respondent which has also been dissolved by orders of Court.
- (7) Merely because the respondent has received permanent alimonies from her Ex.husbands, that does not disqualify her to apply for



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interim maintenance from the petitioner who is the present husband of the respondent. It is not the case that the respondent/wife is having a decent income to take care of herself or that she has enough means. Though the petitioner has stated that the respondent is having illicit intimacy with another and that she is leading a luxury life, no evidence is let in by the revision petitioner in the Lower Court.

- (8) Considering the fact and circumstances of the case, this Court is unable to interfere with the order granting a sum of Rs.3,000/- per month towards interim maintenance of respondent. However, the litigation expenses as directed by the Court can be reduced in view of peculiar facts and circumstances of the present case.
- (9) This Civil Revision Petition is therefore **Partly Allowed**. While confirming the order of the Lower Court granting interim maintenance @Rs.3,000/- per month, the direction towards litigation expenses is reduced from Rs.10,000/- to Rs.5,000/-. No costs. Consequently, connected Civil Miscellaneous Petition is closed.



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At this juncture, learned counsel for the revision petitioner requested this Court to direct the Lower Court for early disposal of the HMOP proceedings. Hence, the Lower Court is directed to expedite the trial and dispose of the case in HMOP.No.27/2018 within the period of three months from the date of receipt of a copy of this order.

31.01.2022

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S.S.SUNDAR, J.,

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To

The Sub Court, Sankari.

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