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CRP.No.3770 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2022

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3770 of 2017

Sridevi

... Petitioner

Versus

Satheeshkumar

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 03.03.2017 passed in I.A. No.132 of 2016 in C.M.A. No.12 of 2015 on the file of the Principal District Judge, Cuddalore.

For Petitioner : Mr. V. Rajesh Babu

For Respondent : Mr. P. Mani

**ORDER**

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2. The petitioner and the respondent herein are the wife and husband respectively.

3. The case of the petitioner is that the respondent husband has filed HMOP No.30 of 2009 for a decree of divorce before the Family Court which was dismissed on 15.04.2015. Hence, the respondent husband has filed the appeal in CMA No.12 of 2015 before the Principal District Judge, Cuddalore, seeking to set aside the order dated 15.04.2015 of the Family Court. Pending the said appeal, the petitioner wife has filed I.A. No.132 of 2016 under Section 24 of the Hindu Marriage Act, to direct the respondent husband to pay a sum of Rs.25,000/- as monthly maintenance as interim measure to the petitioner wife and the minor female child from the date of the appeal till the disposal of the appeal. Having heard both



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sides and perused the records, the learned Appellate Judge partly allowed the said application directing the respondent husband to pay maintenance for a sum of Rs.3,000/- per month to the petitioner's minor child alone and rejecting the maintenance for the petitioner wife. Being aggrieved by the aforesaid order, the petitioner wife has filed the present Civil Revision Petition to set aside the same.

4. The learned counsel for the petitioner would submit that while the respondent husband is running furniture shop and earning a monthly income more than Rs.50,000/-, the Appellate Court having rejected the claim of the petitioner wife for her own maintenance on foot of the order dated 29.11.2011 passed by this Court in CRP (PD) No.3857 of 2011, have fixed the same quantum of Rs.3,000/- towards interim maintenance payable to her female child alone as fixed by this Court in the year 2011, which is currently very meager, especially when the respondent husband herein is not taking care of her daughter and is not bearing the education expenses of her daughter. Further, the Lower Appellate Court brushed aside the fact that the petitioner wife has spent a sum of Rs.60,000/- towards education expenses for her daughter.



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5. It has been further submitted by the learned counsel for the petitioner that from the date of dismissal of the HMOP No.30 of 2009 dated 15.04.2015, the respondent husband has not been paying any amount towards maintenance either to the petitioner or to her female child. Hence, the petitioner has filed I.A. No.132 of 2016 seeking for maintenance of Rs.25,000/- to make both ends meet. However, the Appellate Court awarded only a sum of Rs.3,000/- towards interim maintenance to the minor girl alone even though the petitioner is working in a private school and getting meager salary and not in a Government School. While being so, the rejection of the interim maintenance to the petitioner herein is untenable and liable to be set aside. While the petitioner is taking care of the female child and spending for her educational expenses, the Lower Appellate Court ought to have awarded the interim alimony amount for not less than a sum of Rs.10,000/- per month. Hence, he seeks to set aside the order dated 03.03.2017 passed in I.A. No.132 of 2016 in C.M.A. No.12 of 2015 on the file of the Principal District Judge, Cuddalore.



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6.The learned counsel for the respondent would submit that the petitioner wife is working as a teacher in a Private School and earning a monthly income of Rs.10,000/- and hence, no need to pay interim maintenance to the petitioner wife and further, relying on the order dated 29.11.2011 passed by this Court in CRP (PD) No.3857 of 2011, the Lower Appellate Court has rightly awarded a sum of Rs.3,000/- only to the petitioner's daughter by avoiding the interim maintenance to the petitioner wife. Hence, there is no interference required in the order dated 03.03.2017 passed by the Principal District Judge, Cuddalore.

7. Heard, the learned counsel for the petitioner and the learned counsel for the respondent as well as perused the materials available on record.

8. On a perusal of the records, it is seen that the marriage between the petitioner and the respondent was solemnized in the year 2003 and they got a female child in the year 2004 out of their wedlock. Due to misunderstanding between the petitioner wife and the respondent husband, the petitioner wife is living separately with her female child taking care of



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her and spending adequate amount for her education. As per the contention of the learned counsel for the respondent, it is admitted fact that the respondent husband is running a Furniture shop and earning income from that business. Being a father of female child, the respondent husband is bound to bear expenses to be incurred to his daughter. Under such circumstances, the maintenance of Rs.3,000/- awarded to the petitioner's daughter in the year 2011 at the age of 7 years would not be sufficient now at the age of 18 years in the current financial scenario as she would have met huge educational expenses for her further studies and other expenses.

9. In view of the above, having considered the facts and circumstances of the case and submissions of the learned counsel for both parties, this Court is inclined to increase the interim maintenance amount from Rs.3,000/- to Rs.10,000/-. Hence, the respondent husband is hereby directed to pay a sum of Rs.10,000/- on first week of every calender month towards interim maintenance to his daughter till she gets married or employed and the said interim maintenance shall be paid from the date of filing of CMA. Further, the respondent husband shall bear the half share



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of the educational expenses to be incurred to his daughter till completion of her studies. The Trial Court is hereby directed to dispose of the case in C.M.A. No.12 of 2015 within a period six months from the date of receipt of copy of this order.

10. With the aforesaid directions, this Civil Revision Petitions is disposed of. No costs.

07.11.2022

Lbm

Index : Yes/No

Speaking Order : Yes/No

Copy To:

1. The Principal District Judge, Cuddalore.
2. The Section Officer, V.R.Section
High Court, Madras.



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T.V.THAMILSELVI, J.

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