



WEB COPY

Crl.RC.No.102 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2022

Coram:

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

Criminal Revision Case No.102 of 2020

P.John Dinesh Kishore

... Petitioner

Vs.

B.Radha @ Sharon Rose

... Respondent

Prayer: Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, praying to set aside the order of the learned VI Additional Family Court Judge, Chennai, passed in M.P.No.627 of 2018 in M.C.No.82 of 2018 on 19.02.2019.

For Petitioner : M/s.R.S.Mangala Kumar

For Respondent : Mr.C.Jayvel for
Mr.R.Ganesh Kumar

**ORDER**

This Criminal Revision Case has been filed seeking to set aside the order of the learned VI Additional Family Court Judge, Chennai, passed in M.P.No.627 of 2018 in M.C.No.82 of 2018 on 19.02.2019.

2. The petitioner is husband and the respondent is wife. The petitioner filed a petition in I.D.O.P. No.82 of 2017 before the VI Additional Family Court, Madurai, seeking divorce. The said petition was transferred to the VI Additional Family Court, Chennai as per the order of this Court dated 16.07.2018 passed in Tr.C.M.P.No.220 of 2018 filed by the respondent. Subsequently, the the respondent/wife filed a petition under Section 125 Cr.P.C. in M.C.No.82 of 2018 seeking monthly maintenance and during pendency of the divorce petition and maintenance petition, the respondent wife also filed a petition under Section 127 Cr.P.C. seeking interim maintenance in M.P.No.627 of 2018. The Family Court after considering the matter, since the petition filed by the petitioner for divorce was pending and the petitioner was earning a sum of Rs.3 lakhs per month and also the respondent/wife who was unemployed and unable to maintain herself, directed the petitioner to pay a sum of Rs.20,000/- per month towards



interim maintenance to the respondent/wife till the disposal of the maintenance case. Challenging the said order, the petitioner/husband has filed the present revision before this Court.

3. This Court while taking the case at the admission stage, directed the petitioner/husband to deposit 50% of the arrears amount within a period of 3 weeks from 05.02.2020.

4. Today (19.12.2022) when the matter is taken up for hearing, the learned counsel for the petitioner/husband handed over a Demand Draft No.013831 dated 14.12.2022 for a sum of Rs.3 lakhs to the counsel for the respondent/wife and the learned counsel for the respondent/wife received the same and he made endorsement to that effect. Further, the learned for the petitioner/husband submitted that the balance amount would be paid on or before 03.01.2023. The same is recorded. The learned counsel for the petitioner prayed this Court to reduce the interim maintenance of Rs.20,000/- awarded by the Court below.



5. The main contention of the respondent/wife is that the petitioner/husband is earning more than Rs.3 lakhs per month and the respondent/wife is unable to maintain herself and she is struggling for survival. Further, the petitioner/husband has filed a divorce petition and the same is pending. Hence, the Family Court considering the entire facts, ordered only Rs.20,000/- per month. Therefore, there is no merit in the revision and the revision is liable to be dismissed.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondent and also perused the materials on record.

7. Admittedly the petitioner/husband has filed a petition for divorce and the same is still pending. During pendency of the same, the respondent/wife filed a petition in M.C.No.82 of 2018 seeking maintenance and subsequently, filed a petition for interim maintenance in M.P.No.627 of 2018. The Family Court after considering the matter, ordered a sum of Rs.20,000/- as interim maintenance to the respondent/wife. Against which, the present revision has been filed before this Court.



8. It is settled proposition of law that no revision would lie against a interlocutory order. Even assuming that the revision is maintainable against an interlocutory order of maintenance, since the main maintenance case is still pending, the parties can work out their rights and remedy before the Court below in the said Maintenance case. Therefore, there is no merit in the revision and the revision is liable to be dismissed.

9. Both the parties are directed to file affidavit of Assets and Liabilities before the Magistrate within a period of 3 weeks from today if not already filed before the Court below. On receipt of the affidavits of Assets and Liabilities, the Family Court is directed to dispose of the case in M.C.No.82 of 2018 within a period of two months thereafter and it is made clear that no extension of time would be entertained. Both the parties are directed to extend their fullest co-operation to the learned Magistrate to dispose of the case in M.C.No.82 of 2018.

10. With the above directions, this Criminal Revision Case is dismissed.

19.12.2022

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Note: Issue order copy on 20.12.2022



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P.VELMURUGAN,J.

Ksa-2

To

VI Additional Family Court Judge,
Chennai

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