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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01/12/2022

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The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.RC(MD)No.47 of 2021

R.Mahendran : Petitioner/Respondent

Vs.

1.C.Lavanya

2.Varshan (Minor)

(R2 represented by his

mother and natural guardian

the 1st respondent) : Respondents/Petitioners

Prayer:- This Criminal Revision has been filed under section 397 and 401 of the Criminal Procedure Code to call for the records pertaining to the order passed in MC No.14 of 2020, dated 07/12/2020 on the file of the Family Court, Theni and set aside the same.

For Petitioner : Mr.M.Prabhu

For Respondents : Mr.V.Karthikeyan

**ORDER**

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This Criminal Revision has been filed seeking to set aside order, dated 22/12/2021 passed in MC No.14 of 2020, dated 07/12/2020 on the file of the Family Court, Theni

2.The facts in brief:-

The marriage between the petitioner and the first respondent took place, on 04/09/2014 as per their customary rites. After the marriage, they were living together for about two months in the husband's house. At the time, the husband was working in Avinashi. Later it came to know that the husband was addicted to liquor, smoking and consuming panmasala. The wife requested the husband to correct himself, but he did not. Later also, she came to know that the husband was in contact with so many women. On 12/07/2015, a male child was born. During their marriage life, the husband was not spending money for maintaining the family. Suspecting her, he was made frequent quarrel. She was also assaulted demanding money and other jewels. He also demanded property to be settled in his name. Later, the husband telling that he was not



having proper job in Avinashi. So at the advise made by her mother, she left her parental home in November 2016. Later also, the husband failed to take her to the matrimonial home. Along with MHOP No.161 of 2017 for divorce, claiming maintenance of Rs.10,000/- each, the petition has been filed before the trial court.

3.That was resisted by the husband stating that the first respondent was not cooperating for the conjugal rights. He was not even permitted to see the child and the wife is also working in Tamil Nadu Electricity Board and getting income of Rs.20,000/- per month.

4.Before the trial court, on the side of the wife, two witnesses were examined and seven documents were marked. On the side of the husband, two witnesses were examined and two documents were marked.

5.At the conclusion of the trial, the trial court directed him to pay the maintenance amount of Rs.7,000/ to the wife and Rs.5,000/- to the child from the date of petition.

6.Now challenging the above said order, this



revision has been preferred by the husband.

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7.Heard both sides.

8.The marriage between the parties and the birth of the child are admitted. Now the divorce proceedings have been initiated by the husband making some sort of allegation against the wife. At the time of hearing, it was submitted by the respondents that even though the petitioner deposited 50% of the arrears amount with regard to the maintenance amount, he is not complying the order. Now it has been stated that the divorce petition is also pending before the Family Court, Theni. Because of the above said issue, it is not possible for the parties to live together.

9.As usual allegations and counter allegations have been made against each other and who made the trouble and what was the reason for separation is a matter for consideration before the trial court before which, the matrimonial proceedings are pending.

10.Without going into the above said issue



regarding the maintenance amount, the trial court by taking into account the earning capacity of the petitioner, ordered Rs.6,000/- each to the respondents. In the present economic situation, that cannot be considered to be excessive or luxurious in nature.

11. Even though, there is no evidence with regard to the monthly income of the petitioner, considering the above said factual situation and the present economic situation, I am of the considered view that I find no reason to differ from the view, that has been passed by the trial court.

12. In the result, this criminal revision is **dismissed.**

01/12/2022

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Index:Yes/No
Internet:Yes/No
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To,

The Family Court,
Theni.

G. ILANGOVAN, J



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