



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	01/12/2022
Date of Pronouncement	20/12/2022

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CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.RC (MD) No.554 of 2022

and

Crl.MP (MD) Nos.6910 and 8259 of 2022

Gandhimathinathan : Petitioner/Respondent/
Respondent

Vs.

1.Vijitha
2.Saishree (Minor)
represented through his guardian
mother 1st respondent) : Respondents/Petitioners/
Petitioners

Prayer: Criminal Revision is filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for records and set aside the order made in Crl.MP No.55 of 2022 in MC No.15 of 2021 dated 29/04/2022 on the file of the Family Court, Tirunelveli and pass any other direction.

For Petitioner : Mr.P.M.Vishnuvarthan

For Respondents : Mr.M.P.Senthil



O R D E R

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This petition has been filed seeking to set aside the order passed by the trial court.

2.The facts in brief:-

It is a matrimonial proceedings initiated under section 125(1) & (2) of Cr.P.C seeking maintenance amount of Rs.30,000/- to the wife and the child. The marriage between the parties took place on 30/01/2019. Out of the above said wedlock, a child was born on 03/10/2019 and because of the cruelty that was made by the family members of the husband, she was unable to live with her husband in joint family; there is no independent income for her and the child. But the husband is getting more than Rs. 4,00,000/-. Apart from that, he is owning other properties.

3.That was resisted by the husband stating that he is working in Arabian country and the wife never lived with his parents. Because of the instigation that was made by wife and her parents, he is working in aboard. After the marriage they were living in a separate house, where she lived only for two months. Thereafter went to her parental home. Thereafter divorcé petition was filed; again another house was arranged by her parents; again she abandoned the house and went to her parental home. After returning to



India he is ready to live with her. Considering the above said facts and circumstances interim maintenance amount was ordered by the trial court by directing the husband to pay Rs.10,000/- each to the wife and the child. Challenging the above said order, this revision has been preferred by the husband stating that the without any proper document, the trial court has assumed that the revision petitioner would have been earning more than Rs.55,000/- and the another ground is that the wife has voluntarily deserted the matrimonial home.

4.Heard both sides.

5.But I am unable to agree with any of the grounds that are made in the revision petition. So what was the trouble between them is a matter for consideration by the family court in the main petition. It is alleged that some sort of illegal intimacy, but without any material it may not be proper on the part of this court to go into this allegation.

6.At the time of admitting the revision, this court passed an order on 21/06/2022 directing the revision petitioner to deposit the arrears amount of maintenance and the monthly maintenance must be paid on or before 5th of every month. So that was not properly complied. Again it



was posted before this court, a direction was given to comply the above said order. When the matter was called on 01/12/2022 it was submitted that Rs.25,000/- was paid apart from Rs.15,000/-.

7. So the learned counsel appearing for the respondent was directed to verify the above said statement. Later only the matter was referred to the mediation, but the mediation could not succeed for one or other reasons. The wife has given a letter stating that she is not willing to live with the husband.

8. So it appears that there is no immediate possibility of reunion between them. Now the husband is in abroad and the wife and the children are in India. Naturally the husband is bound to pay the monthly maintenance to the wife and the children. Whether because of the illegal intimacy of the wife is a bar for claiming maintenance amount is a matter in the main petition before the trial court. In the light of the above said development, I am of the considered view that no ground is made out by the revision petitioner to interfere the order that has been passed by the trial court.



9. Even though there is no documentary evidence to prove the income particulars of the petitioner directing Rs.10,000/- as maintenance each to the wife and the child, in the present economic situation, considering the status of the parties cannot be construed as excessive or luxurious in nature.

10. In the result, this criminal revision is **dismissed**. However, considering the facts and circumstances of the case, there shall be a direction to the trial court to expedite the trial process and complete the same within a period of of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

20/12/2022

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

The Family Court,
Madurai.



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G.ILANGOVAN, J

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Cr1.RC(MD)No.554 of 2022

20/12/2022