



.CRP.No.391 of 2023.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 24.02.2023

Delivered On: 28.04.2023

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

CRP.No.391 of 2023

and

CMP.No.3233/2023

Sathish Kumar

... Petitioner/Respondent/Petitioner

Vs.

Meera

... Respondent/Petitioner/Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the Order dated 14.11.2022 passed in I.A.No.2/2022 in IDOP.No.2724/2019 on the file of the learned II Additional Family Court Judge, Chennai.

For Petitioner : Mr.A.R.Nixon

For Respondent : Mr.R.Surya Prakash

ORDER

This Civil Revision Petition has been filed to set aside the Order passed by the learned II Additional Family Court Judge, Chennai in I.A.No.2/2022 in IDOP.No.2724/2019 dated 14.11.2022.



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2. The learned Counsel for the Revision Petitioner submitted that the Revision Petitioner is the Husband and he had filed IDOP.No.2724/2019 before the learned II Additional Judge, Family Court, Chennai in which the Respondent/Wife had filed Petition in I.A.No.2/2022 claiming interim maintenance.

2.1. The learned Counsel for the Revision Petitioner/Husband also submitted that the Respondent/Wife had already filed DVC.No.81/2019 before the learned XVII Metropolitan Magistrate, Saidapet in which she had filed CrI.M.P.No.4017/2022 u/s. 23 of the DVC Act. After due enquiry, the learned XVII Metropolitan Magistrate, Saidapet, as per Order dated 07.07.2022 had directed the Respondent/Husband to pay interim maintenance of Rs.15,000/- per month to the wife and to pay the school fees of three daughters directly in the School.

2.2. This Order was passed after taking into consideration of the assets and liabilities of the Husband. Subsequently, an Order was passed in I.A.No.2/2022 in IDOP.No.2724/2019 wherein the Revision Petitioner herein, who is the Respondent in that Petition, for interim maintenance,



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directing him to pay a sum of Rs.25,000/- to the wife and 5000/- each to the three daughters totalling Rs.40,000/- as interim maintenance. Therefore, learned Counsel for the Revision Petitioner submitted that the Revision Petitioner is drawing salary of Rs.33,000/- per month whereas he was directed to pay Rs.40,000/- as per Order in I.A.No.2/2022. While Orders passed by the learned XVII Metropolitan Magistrate, Saidapet, the Revision Petitioner/Husband was directed to pay Rs.15,000/- to the Respondent/Wife and the School fees of the daughters which was beyond his income. Therefore, he had sought to set aside the Order passed in I.A.No.2/2022 in IDOP.No.2724/2019.

3. The learned Counsel for the Respondent submitted that the submission of the learned Counsel for the Revision Petitioner cannot at all be accepted. The Order passed by the learned Judge, Family Court is a well-reasoned Order and it does not warrant any interference of this Court. The reported ruling of the Hon'ble Supreme Court in **(2021) 2 SCC 324** in the case of **Rajnesh Vs. Neha**, the Order is as per the reported ruling, after considering the affidavit of the Petitioner along with assets and liabilities.



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The contention of the learned Counsel for the Revision Petitioner in the counter filed before the Family Court that the Wife is running Abraham Consultancy Services and in the very same premises, she is conducting tuition for the children and play school, through which she earns Rs.30,000/- per month, cannot at all be accepted. The photograph enclosed in the typed set of papers shows that the Wife is taking tuition. The board was focused by the Petitioner herein and not by the Wife, it is only to create evidence to deny her maintenance. The Revision Petitioner is residing in another flat. The Revision Petitioner had sold brand new car as he was unable to pay EMI.

4. On consideration of the Order passed by the learned XVII Metropolitan Magistrate directing the husband to pay Rs.15,000/- per month for his wife and his three children in DVC.No.81/2019 and to pay the school fees for the three children. The Order passed by the learned Family Court Judge directing the husband to pay Rs.40,000/- per month is found beyond his salary and the same is set aside.

4.1. Considering the income of the Petitioner as Rs.40,000/- and the annual income shown as Rs.4,80,000/-, this Civil Revision Petition is



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allowed in the light of the order passed by the learned XVII Metropolitan Magistrate directing the husband to pay Rs.15,000/- per month to the wife and three children and to pay the school fees of three daughters directly in the School.

4.2. Point for consideration is answered in favour of the Revision Petitioner and against the Respondent. The Order passed by the learned II Additional Judge, Family Court in I.A.No.02/2022 in IDOP.No.2724/2019 dated 14.11.2022 is to be set aside.

In the result, this ***Civil Revision Petition is allowed.*** The Order passed by the learned II Additional Judge, Family Court in I.A.No.02/2022 in IDOP.No.2724/2019 dated 14.11.2022 is set aside. Consequently, connected Miscellaneous Petition is closed. No costs.

28.04.2023

dh

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order



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SATHI KUMAR SUKUMARA KURUP, J.

dh

To

1. The II Additional Family
Court Judge, Chennai.
2. Section Officer,
V.R.Section,
High Court, Madras.

Order made in
CRP.No.391 of 2023

28.04.2023