



Crl.R.C.No.929 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

Crl.R.C.No.929 of 2023
and
Crl.M.P.No.9472 of 2023

M.Elango

... Petitioner

Versus

R.Jayanthi

...Respondents

Prayer : Criminal Revision filed under Section 397 r/w 401 of Criminal Procedure Code 1973, to call for the records in M.P.No.116 of 2022 in M.C.No.156 of 2020 on the file of the VII-Additional Family Court, Chennai and set aside the order dated 15.11.2022.

For Petitioner : Mr. T.C.S.Raja Chockalingam

ORDER

The present revision is directed against the order passed in M.C.No.156 of 2020 by the learned VII-Additional Family Court, Chennai.

2.The respondent herein has filed the petition in M.P.No.116 of



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2022 seeking interim maintenance of Rs.25,000/- per month.

3.The case of the respondent/petitioner is that the marriage between her and the present revision petitioner was solemnized on 30.08.1998 as per the Hindu rites and customs, and out of the said wedlock they have begotten a male child by name, Sukeshwaran; According to the respondent/petitioner, she and her son were subjected to physical assault as well as mental harassment by the present revision petitioner and her son has also undergone surgery recently. It is also her contention that she is unable to maintain herself and her son, therefore, prayed to direct the present revision petitioner to pay an interim maintenance of Rs.25,000/- per month.

4.The present revision petitioner/respondent filed a counter affidavit stating that the marriage between him and the respondent herein was dissolved by the II-Additional Family Court, Chennai in H.M.O.P. No.2342 of 2023 on the ground of cruelty and desertion and therefore, he is not bound to maintain the respondent, who is his first wife.

5.The learned II-Additional Family Court Judge, after



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considering the rival submissions had concluded that the present revision petitioner is bound to maintain the respondent herein by paying a sum of Rs.25,000/- per month. Accordingly, interim maintenance of Rs.25,000/- was granted in M.P. No. 116 of 2022 in M.C. No.156 of 2020 and it was directed to be paid on or before the 5th day of every English Calendar.

6.A perusal of the order of the Trial Court shows that the present revision petitioner had contracted a second marriage after the dissolution of his first marriage with the respondent on the basis of an ex parte order passed in H.M.O.P.No.2347 of 2003. It is also stated that the present respondent does not have any independent source of income to maintain herself and her son. However, the trial court held that the respondent did not produce any evidence to show that her son had recently undergone surgery in a hospital.

7. In the instance case, the revision petitioner is working as Sub-Inspector of Police, Greater Chennai, and his Gross Salary is Rs.80,582/-, as could be seen from his pay slip for the month of June 2023, submitted before this Court. The Trial Court Judge in his Judgment, in paragraphs



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Nos.13, 14 & 15 has gone in detail with the evidence after rival hearing submissions of both the parties and concluded that it would be appropriate to grant interim maintenance. It is useful to extract the said paragraphs Nos.13,14 & 15 of the Judgment, hereunder:

“13. In view of the above settled position of law, it is the obligation of the respondent-husband to maintain the petitioner-wife and children in the custody of the petitioner. Further, the obligation of respondent-husband is on a higher pedestal when the question of maintenance of wife and children arises. In this regard, the Hon'ble Apex court in Shamima Farooqui V. Shahid Khan, 2015 (3) CTC 80, held in para 18 as follows:-

“when the women leave the matrimonial home, the situation is quite different. she is deprived of many a comfort. Sometimes, the faith in life reduces. Sometimes, she feels she has lost the tendered friend. There may be a feeling that her fearless courage has brought her the misfortune. At this stage, the only comfort that the law can impose is that the husband is bound to give monetary comfort. That is the only soothing legal balm, for she cannot be allowed to resign to destiny. Therefore, the lawful imposition for grant of maintenance allowance.

14. While determining the quantum of



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maintenance, the Honb'le Apex Courtt in Jasbir Kaur Sehghal V. District Judge Deradun & Others , 1997(7) SCC 7 has held that the court has to consider the status of the parties and respective needs. At the same time, the amount so fixed cannot be excessive or inordinate.

15. In view of the above said settled position , considering the stated facts and circumstance sand earning capacity of the respondent, and his financial status ,this court inclines to pass order of interim maintenance for a sum of Rs.20,000/- per month to the petitioner and her son. The point is answered accordingly.

8. All the observations of the Trial Court Judge are perfectly in order and the same cannot be interfered with by this Court. Accordingly, the Criminal Revision Case is dismissed.

9.This Court vide order dated 02.06.2023 granted an interim stay on condition to deposit 50% of the arrears of maintenance amount to the credit of M.C.No.156 of 2020.

10.When the matter is taken up for hearing today the present



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revision petitioner has filed C.M.P.No.9472 of 2023 in Crl.M.P.No.7569 of 2023 in Crl.R.C.No.929 of 2023, praying to grant three months time to pay the balance amount of Rs.1,00,000/- to the credit of M.C.No.156 of 2020. Since the main Criminal Revision is taken up for hearing, the C.M.P.No.9472 of 2023 is dismissed. The present Criminal Revision Case and the Miscellaneous Petition, Crl.M.P.No.7569 of 2023 are also dismissed.

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Index: Yes/No
Speaking/Non-Speaking order
Neutral Citation :Yes/No

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