



Crl.R.C.No.1198 of 2023
and Crl.M.P.No.9345 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.R.C.No.1198 of 2023

and

Crl.M.P.No.9345 of 2023

C.V.Kishore Kumar

... Petitioner

Vs.

1. R.Sajitha

2. Master Jaswant

(Minor aged about 5 years

Rep. by mother and natural guardian)

... Respondents

Prayer : Criminal Revision filed under Section 397 r/w. 401 Cr.P.C. to set aside the order dated 13.07.2022 in M.C.No.31/2010 passed by the learned V Additional Family Court Judge at Chennai.

For Petitioner : Ms.M.Sneha

For Respondents : Mr.P.Hari Babu



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3.While so, on 10.06.2005, the petitioner left for his office as usual and did not come back home for the reasons best known to him. Therefore, the first respondent filed a petition in O.P.No.2355/2005 under Section 9 of Hindu Marriage Act for restitution of conjugal rights before the First Additional Family Court. The First Additional Family Court vide its orders dated 19.12.2008 directed the revision petitioner to live with the first respondent. As per the directions of the court, the revision petitioner and the first respondent started living at Nagercoil in the house of revision petitioner's parents. Since the first respondent was unable to bear the torture meted out to her, she left the matrimonial home with her child and joined her parents.

4. According to the first respondent, her husband is working in M/s.Compvue India Private Limited, Nagercoil, drawing a monthly salary a sum of Rs.50,000/-. Her contention is that she is unable to maintain herself as she is unemployed. Hence, she prayed for monthly maintenance of Rs.15,000/- from her husband (the present revision



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5.The revision petitioner/husband filed a counter stating that he paid a sum of Rs.20,000/- towards the admission fees of his son who is studying in I standard in Adarsh Vidyalaya School at Nagercoil, besides paying donation and other expenses. According to him, he had to resign his job as he was unable to concentrate on his work. It is also his contention that he was unable to fulfil the various demands made by his wife and therefore, he prayed for dismissal of the petition.

6.In the trial Court, the first respondent examined herself and marked Ex.P1 to Ex.P5. The present revision petitioner examined himself and marked Ex.R1 to Ex.R3. After full contest, the learned V Additional Principal Family Judge, Chennai partly allowed the petition and directed the present revision petitioner to pay a sum Rs.12,000/- per month to the second petitioner/son from the date of the petition on or before the 5th day of every English calendar month. Aggrieved over the same, the present Criminal Revision has been filed.



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7. Heard Ms.N.Sneha, the learned counsel for the revision petitioner and Mrs.P.Hari Babu, the learned counsel for the respondents.

8. Ms.N.Sneha, learned counsel for the revision petitioner contended that the first respondent pressurised the revision petitioner to stay in her parents house and that since he refused to do the same, she started humiliating the present revision petitioner. It is also her contention that though the present revision petitioner took the first respondent herein to Nagercoil, she deserted him and came back to Chennai and started working for M/s.India Cements. According to her, the revision petitioner is now jobless as he met with an accident during February 2015 and is constantly wearing cervical collar and he is presently under the care and custody of his parents and therefore, he cannot pay any maintenance to the respondents as directed by the Family Court.



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9. Per contra, the learned counsel for the respondent drew the attention of this Court to the evidence of the present revision petitioner wherein he has deposed that he had never come to the Family Court wearing cervical collar. His further contention is that the trial Court had awarded a sum of Rs.12,000/- per month as maintenance only to the second respondent and this cannot be said to be on the higher side.

10. A perusal of the orders passed by the learned V Additional Principal Family Judge, Chennai shows that the maintenance amount was awarded to the second petitioner only till he attained the age of majority. The maintenance case was filed in the year 2010 and on that date, the second respondent was aged about 5 years. Now he is studying in VIT, Vellore and it is seen that the first respondent alone is paying his college fees and the present revision petitioner has not paid even a single paisa towards his son's educational expenses. It is shocking to note that in the maintenance case which was filed in the year 2010, orders were passed only in the year 2022 by the concerned Court.



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11. Be that as it may, the amount awarded by the trial Court cannot also be said to be on the higher side. Section 125 of Cr.P.C. was conceived to ameliorate the agony, anguish, financial suffering of a woman who left her matrimonial home on account of cruelty meted out to her. It is the sacrosanct duty of a husband to provide financial support to his wife and minor children. The husband is required to earn money with physical labour, if he is able bodied and he cannot avoid his obligation, except on the legally permissible grounds mentioned in the statute.

12. In the instant case, the revision petitioner though was working in a multinational company at the time of his marriage had resigned his job. According to the counsel for the revision petitioner, the revision petitioner is now jobless as he met with an accident during February 2015. However, he did not adduce any acceptable medical records to show that he is totally unfit to do any job. As already observed, the monthly maintenance of Rs.12,000/- was awarded only to the second respondent.



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13. In these circumstances, this Court is of the view that awarding a sum of Rs.12,000/- per month towards maintenance to the child till he attains majority by the trial court judge cannot said to be on the higher side. In the result, this Criminal Revision fails and is therefore, dismissed. No costs. Consequently, connected Criminal Miscellaneous Petition is closed.

27.07.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

R. HEMALATHA, J.

mtl



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To

1. The V Additional Family Court Judge at Chennai.
2. The Section Officer,
Criminal Section, High Court, Madras.

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