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Crl.R.C.No.773 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

CORAM

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

Crl.R.C.No.773 of 2023 and
Crl.M.P.No.5979 of 2023

K.P.Harish

... Petitioner

Vs.

S.Shalini

... Respondent

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the orders, dated 11.11.2022 in M.P.No.627 of 2021 in M.C.No.72 of 2019 passed by the learned II Additional Principal Judge, Chennai.

For Petitioner : Mr.E.Kotteswaran

For Respondent : Dr.S.S.Swaminathan

ORDER

Challenging the orders, dated 11.11.2022 passed in M.P.No.627 of 2021 in M.C.No.72 of 2019 by the learned II Additional Principal Judge, Chennai, the present Criminal Revision is filed.

2. The respondent/wife filed a petition under Section 125 of



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Cr.P.C., seeking maintenance in M.C.No.72 of 2019 and during the pendency of the said petition, filed M.P.No.627 of 2021 under Section 125 (2) of Cr.P.C., seeking interim maintenance of Rs.45,000/- p.m. The respondent filed a detailed counter, denying the various allegations made in the petition. The learned II Additional Principal Judge, Family Court, Chennai after considering the rival submissions made by both sides, directed the revision petitioner to pay a sum of Rs.30,000/- p.m. towards interim maintenance from the date of filing of the petition. Aggrieved over the same, the present revision is filed.

3. Mr.E.Kotteswaran, learned counsel for the revision petitioner contended that the revision petitioner had resigned his job and that the respondent owns properties worth about several Crores of Rupees. He further contended that it is a second marriage for both the petitioner and the respondent. According to him, the trial Court without considering the properties owned by the respondent, awarded a sum of Rs.30,000/- per month.

4. Per contra, Dr.S.S.Swaminathan, learned counsel appearing



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for the respondent contended that the respondent is unemployed and she is living under the care of her mother. He further contended that she is not getting any rental income from the properties owned by her and therefore the order passed by the trial Court is perfectly in order.

5. It is seen from the records that the present revision petitioner is a Deputy Manager in EBM Post India Private Limited, earning a sum of Rs.86,000/- p.m. It is also seen from the records that he owns an independent house and he is getting rental income from it. The learned Trial Court Judge in her orders had observed thus:

“The petitioner filed the M.C claiming maintenance for herself. The respondent is a chronic womanizer. The respondent did not give any money to the petitioner to meet her monthly expenses. She is unemployed and she did not have any source of income. She is living at the mercy of her mother. The petitioner left her job before engagement itself, as the respondent wanted his wife to be a homemaker. The respondent was working as Deputy Manager (Marketing) in EBM Post India Private Limited, a German company and was drawing a monthly salary of



Rs.86,000/- and he owns an independent house and getting rental income but he has not given even a single rupee to her and he had totally neglected his duties. Even though the respondent is having sufficient income, he has totally neglected to maintain her and hence the present petition has been filed by her.

“6. The case of the respondent is that, the petitioner lodged a complaint against the respondent that he is having illicit relationship with some other ladies. The respondent came to know about the FIR has been filed against him and he got the Anticipatory bail, on condition that he shall appear before the police at 10.30 am daily. The petitioner sent a legal letter along with the copy of the FIR and Bail to the office of the respondent, Chennai Office and also to the CEO Ebmpapst Group, Germany. As per direction, he had surrendered his passport before W27 All Women Police Station. Vadapalani, Chennai. The respondent was forced to resign his job and thereafter he is jobless and he has no source of income. On the other hand, the petitioner is too wealthy. She has two apartments and receiving rental income of 13 Lakhs per months. She also owns a car and guest houses in Coimbatore and Ooty. She is leading luxurious life and more over the petitioner is



also an engineering graduate and Post Graduate in MBA very well educated and she lived with the respondent only for 3 days and she left from the matrimonial home and never returned back and this petition is liable to be dismissed.

7. After hearing the arguments of petitioner, there is no dispute between the parties with regard to their marriage. The petitioner has contended that she is unemployed, and she is living under the mercy of her mother. The respondent has contended that the petitioner is well educated and she is wealthy family and leading a luxurious life. Both the parties filed their affidavit of assets and liabilities. The petitioner in her affidavit of assets and liabilities she has stated that she is not working anywhere and the respondent is working and getting a salary of Rs.1,00,000/- per month and getting rental income also. The respondent has also filed his affidavit of assets and liabilities in which he has stated that he is not working now and the petitioner is working as HR in IT company and getting a salary of Rs.1,00,000/- per month but no proof has been filed by him. The respondent is hale and healthy Therefore the contention raised by the respondent cannot be accepted.

8. Though the respondent has argued that the



petitioner is earning but no proof has been filed by him to substantiate the same. The petitioner has sought a sum of Rs.45,000/- per month to the petitioner towards interim maintenance. It is the duty of the respondent to maintain the petitioners by providing proper food and shelter according to his status and lifestyle. In the case on hand, the respondent has failed and neglected to maintain the petitioner. The respondent has not produced any document before this court to prove his income. On the other hand, he has stated in his affidavit of assets and liabilities that he has paid Rs.4.5 Lakhs towards Advocate fees. It would go to show that the respondent has not appeared this court with clean hands. In view of the above discussion the point is answered in favour of the petitioner.

In the result, this petition is partly allowed and the respondent is directed to pay a sum of Rs.30,000/- (Rupees Thirty Thousand Only) per month to the petitioner towards interim maintenance to be paid to the petitioner from the date of filing of this petition viz. 11.10.2021 till the disposal of the main MC. The Respondent is directed to pay the future maintenance amount to the petitioner on or before 5th of every month. The arrears of the maintenance to be paid by the respondent within 2 months from today.”

6. The above observations made by the learned trial Judge



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cannot be faulted with. In the instant revision also, the revision petitioner did not adduce any evidence to show that the amount awarded by the trial Court is on the higher side. On the contrary, the learned counsel for the revision petitioner contended that the revision petitioner resigned his job. However, as is seen from records, the revision petitioner is well qualified and he does not have any deformity. It is not the case of the revision petitioner that he is unable to get any job. In the circumstances, he is bound to maintain his wife, the respondent herein. Accordingly, the Criminal Revision is dismissed. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-Speaking order
vum

To

The II Additional Principal Judge,
Family Court, Chennai.



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vum

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