



Crl.R.C.No.2053 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2053 of 2023

and

Crl.MP.No.18917 of 2023

A.Nirmalkumar

... Petitioner

Vs.

L.Poorani

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397(1) r/w. 401 of Criminal Procedure Code, to set aside the order of maintenance of Rs.15,000/- by the husband to the wife dated 20.06.2022 in M.C.No.106 of 2022 on the file of the III Additional Principal Judge of Family Court, Chennai.

For Petitioner : Mr.V.Sekar

For Respondent : Mr.K.Manikandan



Crl.R.C.No.2053 of 2023

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ORDER

The petitioner/respondent in M.C.No.406 of 2022 challenging the order passed by the learned III Additional Principal Judge, Family Court, Chennai dated 20.06.2022 filed the present petition.

2.The contention of the learned counsel for the petitioner is that the Court below failed to consider that the educational qualification of the respondent/estranged wife of the petitioner is M.Sc. M.Ed., having obtained two Post Graduate Degrees and qualified in the field of teaching, she suppressed about her employment and earnings. Further the petitioner is only a Hostel Attender at Gents Hostel, Amirtha College of Engineering, Ettimadai, Coimbatore with meager income of Rs.10,000/- per month. The petitioner apart from maintaining himself he has to take care of his aged parents. He would submit that since the petitioner failed to appear before the Lower Court, he was set exparte on 16.05.2022. The petitioner had been deprived of putting forth his case and also to prove the fact that the respondent is earning sufficiently and she is not dependent on petitioner's



maintenance amount. He further submitted that the Lower Court directed the petitioner to pay a sum of Rs.15,000/- as maintenance from 21.02.2022 which is not proper since the petitioner's salary itself is only Rs.12,000/-.

3.The learned counsel for the respondent/estranged wife of the petitioner submits that marriage between the respondent and the petitioner was solemnized on 03.03.2021. He would submit that the petitioner is working as Hostel Supervisor in Agasthya Bhabanam Hostel, Amirtha College of Engineering and earning a sum of Rs.40,000/- per month. He would further submit that all the efforts by the respondent for re-union has failed since the petitioner is not willing to live with her. The respondent is being ill-treated and abused by the petitioner and from April 2021, they were living separately which is being done since the petitioner intends to marry another lady. He would further submit that the petitioner owns a property measuring 2400 sq.ft. and he is earning around Rs.30,000/- from the property. The respondent is suffering without any support from the petitioner and his family members, hence she is in need of maintenance amount. He further submitted that the petitioner was set exparte on



Crl.R.C.No.2053 of 2023

16.05.2022 and she has got no objection to set aside the exparte order provided the petitioner makes some payment.

4.At this juncture, the learned counsel for the petitioner submitted that the petitioner already paid a sum of Rs.50,000/- on 23.11.2023 to the credit of M.C.No.106 of 2022 on the file of the learned III Additional Principal Judge of Family Court, Chennai and he has got no objection for the respondent to withdraw the same. He further submitted that to show his bonafide the petitioner is ready to deposit another Rs.1,00,000/- to the credit of M.C.No.106 of 2022 and this amount also can be withdrawn by the respondent. He would further submit that the Lower Court can dispense with notice to the petitioner/husband and grant permission to the respondent/wife to withdraw the amount and in total the respondent/wife can withdraw a sum of Rs.1,50,000/-.

5.In view of the above, the petitioner is directed to deposit a sum of Rs.1,00,000/- [Rupees One Lakh only] to credit of M.C.No.106 of 2022 on the file of the learned III Additional Principal Judge of Family Court,



Crl.R.C.No.2053 of 2023

Chennai on or before 04.01.2024. Accordingly, the exparte order passed by the learned III Additional Principal Judge of Family Court, Chennai in M.C.No.106 of 2022 dated 20.06.2022 is hereby set aside. The Lower Court to consider the case on merits from the date of setting the petitioner exparte and decide the case on its own merits.

6.With the above directions, the Criminal Revision Petition stands allowed. Consequently connected M.P. is closed.

12.12.2023

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse

To

The III Additional Principal Judge,
Family Court,
Chennai.



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Crl.R.C.No.2053 of 2023

M.NIRMAL KUMAR, J.

cse

Crl.R.C.No.2053 of 2023

12.12.2023