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Crl.R.C.No.1499 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

CORAM

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

Crl.R.C.No.1499 of 2023 and
Crl.M.P.No.13378 of 2023

Veera RK Arunachalam

... Petitioner

Vs.

Krishna Devi @ Kannathal

... Respondent

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the order passed by the learned I Additional Principal Judge, I Additional Family Court, Chennai in M.P.No.289 of 2021 in M.C.No.187 of 2020, dated 31.01.2023.

For Petitioner : Mr.Chandran Sundar Sasikumar
for Mr.S.Sithirai Anandam

ORDER

Challenging the orders, dated 31.01.2023 in M.P.No.289 of 2021 in M.C.No.187 of 2020 passed by the learned I Additional Principal Judge, I Additional Family Court, Chennai, the present Criminal Revision is filed.

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2. The respondent/wife filed a petition under Section 125 of Cr.P.C., seeking maintenance from the revision petitioner in M.C.No.187 of 2020 and during the pendency of the said petition, she filed M.P.No.289 of 2021 under Section 125 (2) of Cr.P.C., praying to direct the revision petitioner to reimburse a sum of Rs.5,54,000/- and Rs.11,75,000/- which was paid by her towards college fee of her son Vishaakh V.Arunachalam and also to direct the revision petitioner to pay a sum of Rs.9,13,500/- and Rs.1,10,388/- towards visa, room rent, maintenance, E.B. and water charges, etc.

3. The revision petitioner married the respondent on 08.11.2000 and out of the said wedlock, a male child viz., Vishaakh V.Arunachalam was born on 11.09.2002. The case of the respondent is that her son Vishaakh V.Arunachalam had secured a seat in Electrical and Electronics Engineering in Northumbria University, Newcastle, United Kingdom and the course commenced during September 2020. She paid 1/3rd of the fee to the University as initial deposit which is around Rs.2,52,000/- Thereafter, she also paid a sum of Rs.3,02,000/- for



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other incidental expenses. Though the revision petitioner was informed about the same, he did not come forward to pay the remaining amount. According to the respondent, her son Vishaakh V.Arunachalam is an intelligent student with great aims in research oriented studies and hence he wanted to do his post graduation in U.K or U.S.A. She had therefore prayed for reimbursement of the amounts incurred for the education of her son viz., Vishaakh V.Arunachalam.

4. The revision petitioner filed a detailed counter. The learned trial Court Judge after considering the rival submissions made by both the parties, allowed the said application vide her orders dated 31.01.2023, Aggrieved over which, the present revision is filed.

5. Mr.Chandran Sundar Sasikumar, learned counsel for the petitioner contended that the present petition has been filed only to harass the revision petitioner and at present he is not working anywhere. He further contended that subsequent to the exparte decree of divorce granted by the Family Court, he married for the second time and he is



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living with his second wife. It is his further contention that though there are many colleges in and around Chennai, it is not necessary for his son to study abroad and that too without consulting him. He, therefore prayed for allowing the present revision.

6. Today the matter is posted for admission and the case is taken up for final hearing at the admission stage itself.

7. A perusal of the orders, dated 31.01.2023 passed by the I Additional Principal Judge, Family Court, Chennai in M.P.No.289 of 2021 in M.C.No.187 of 2020, shows that the respondent had paid 1/3rd fee as initial deposit in the University which was around Rs.3,02,000/- by selling her own jewels. The petitioner's son had secured a seat in Northumbria University, Newcastle, United Kingdom under merit.

8. The revision petitioner states that he cannot pay the tuition fee for his son. According to him, studying in a foreign country is very expensive. However, it is admitted that the present petitioner was an



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MBA graduate from Leeds Beckett University, United Kingdom. As already observed, the revision petitioner's son had secured a seat on merit in the University like Northumbria University in United Kingdom and the petitioner is duty bound to pay the tuition fee to his son especially when he also graduated from United Kingdom. The learned I Additional Family Court Judge in her orders had observed thus:

“14. The very purpose of Section 125 Cr.P.C. is also to protect the children from want of roof, food of roof, food, clothing and necessities of life. Education is an important aspect in children's life. Amounts need to be spent for it. Every father is bound to provide a good education to his children. No father is expected to produce a criminal or a disorderly person. Thus, he has to bear the educational expenses of his children. Even a man on the pavement will be dreaming of his children becoming a qualified person in life. Therefore, the obligation of a father to maintain, to meet the educational expenses of his children cannot be excluded for the Component of maintenance. Section 125



Cr.P.C. is not only for food, for life, it should also be for food for thought. Otherwise, so far as the children are concerned, we will be doing violence to the very object of Section 125 Cr.P.C." The instant case, the challenge to the amount claimed for the education of the son has been mounted by the respondent on the ground that it is highly luxurious and it is not intimated to the father. Since the father i.e. the respondent is well placed financially, it would be incumbent upon him to bear educational expenses of his son till he is able to earn his own living or till he completes his education.

15. It is alleged that as now he is jobless and there is no income to pay such huge amount to the petitioner. The two children are living with the mother. The entire expenditure of the children are now being borne by the mother with the help of her parents. The respondent has also got married to another women. The petitioner and the children are now under the care of the petitioner's parents.



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The petitioner has to take care of the entire expenditure of the children. The educational amount has to paid by the mother without any contribution by the father. It is not reasonable to expect that the mother alone would bear the entire burden for herself and for the children. The husband must also carry the financial burden of making certain that his children are capable of attaining a position in society wherein they can sufficiently maintain themselves. The mother cannot be burdened with the entire expenditure on the education of her just because the children are with her and the father cannot be absolved of all responsibilities to meet the education expenses of his children because the son's education is in abroad and it is so expensive and he was not consulted with regard to his studies. A father is bound to compensate the wife who, after spending on children, may hardly be left with anything to maintain herself. Ex.P.1 to P8 are the documents evident for the payment of the admission of the son and the outstanding



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balance to be paid.

Considering the financial status of both the parties, the respondent is directed pay the amount claimed for the educational expenses of the son and the point is answered accordingly.”

9. It is not the case of the revision petitioner that he is physically or mentally disabled from doing any job and he is well qualified. His contention that he is at the care and custody of the second wife, cannot be accepted. The observation of the learned Trial Court Judge warrants no interference by this Court. 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 I Additional Principal Judge,
I Additional Family Court, Chennai

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