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Crl.R.C.No.1851 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1851 of 2023 and
Crl.M.P.No.17454 of 2023

Ranjith, M/A 43 Yrs,
S/o.Jaishankar,
No.1/94A, Ponneri Paarai,
Cholavaram Village,
Vellore Taluk & District.

... Petitioner

Vs.

1.Jayanthi, F/A 47 Yrs,
W/o.Ranjith.

2.Minor Priyadarshini, F/A17 Yrs.,
D/o.Ranjith,
Rep. by Mother & Natural Guardian,
Both Residing at
No.27, Navasakthi Nagar,
Anaicut Village,
Vellore Taluk & District.

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 & 401 of Criminal Procedure Code, to set aside the order dated 19/01/2023 passed by the Family Court, Vellore in MC No.57 of 2020.

For Petitioner : Mr.S.P.Arthi

For Respondent : Mr.C.P.Sivamohan



Crl.R.C.No.1851 of 2023

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ORDER

Challenging the impugned order, dated 19.01.2023 passed by the learned Judge, Family Court, Vellore in M.C.No.57 of 2020, this Criminal Revision Case has been filed.

2.The petitioner/respondent in M.C.No.57 of 2020 was ordered to pay Rs.8,000/- to the 1st respondent and Rs.6,000/- to the 2nd respondent as maintenance amount from the date of filing of the maintenance petition on or before 5th day of every English calendar month and also to pay cost of Rs.5,000/- for filing litigation, vide impugned order, dated 19.01.2023.

3.The contention of the petitioner is that the impugned order has been passed against the principles of natural justice. The petitioner purchased a property in the name of the 1st respondent and he put a superstructure investing all his savings and the respondents are under occupation of the said property. The petitioner is not allowed to enter into his own house. He further submitted that the petitioner has to take care of his aged mother who



is having various health ailments. Both the petitioner and his mother are now forced to reside in a rental house. Apart from it, the petitioner is repaying his father's medical debts. He further submitted that the 1st respondent has completed M.A., B.Ed., Tamil Literature and employed as Teacher at Shylaja Higher Secondary School, Anaicut, Vellore District in the year 2007 and she has been receiving regular salary. After receipt of the summons in M.C.No.57 of 2020, the petitioner approached Shylaja Higher Secondary School seeking particulars of the 1st respondent's employment and her salary. Coming to know about the same, the 1st respondent resigned the said job for the sole reason to cause harassment to the petitioner. The 1st respondent is making sufficient earnings and she is in a position to sustain herself. He further submitted that the petitioner, an Ex-Military man, due to his health issues, took voluntary retirement and now, he is surviving with his monthly pension. On the other hand, the 1st respondent is receiving rental income from the property which was constructed by the petitioner investing all his life savings. Apart from it the 1st respondent is taking tuition for twenty school going children and receiving additional income. This being so, suppressing all these facts, the 1st respondent approached the



Family Court and obtained the impugned order, dated 19.01.2020. Hence, he prays for setting aside the same.

4.The learned counsel for the respondents on the other hand strongly opposed the petitioner's contention and submitted that the petitioner and the 1st respondent got married on 18.06.2007, it was an arranged marriage. Out of their marriage, they have been blessed with a female child, who is a 2nd respondent herein. Four years after the marriage, the petitioner deserted the matrimonial home and not taken care of the respondents. He further submitted that the petitioner also filed a divorce petition F.C.O.P.No.347 of 2014 with false allegation, later it was dismissed for default on 06.06.2017, against which, no appeal filed. The 1st respondent is without any job and income and she is sustaining herself by support of her parents. The 2nd petitioner is a school going child, now she attained puberty. The 1st respondent has to take care of her minor daughter, her studies and well being. He further submitted that the petitioner was discharged from the army and he is receiving monthly pension of Rs.30,000/-. Further, the petitioner owns a property and house in the village after discharge from the



army. Added to it, the petitioner is now employed in a private firm receiving Rs.20,000/- per month. On his discharge from army, the petitioner received benefits of Rs.60,00,000/-. Such being the position, the petitioner failed to maintain the respondents.

5.The learned counsel further submitted that the 2nd respondent is studying 5th std, her tuition fees is around Rs.1,00,000/- per year, transportation charge is Rs.1,300/- per month. Hence, the respondents filed the maintenance petition seeking Rs.15,000/- per month for each of the respondents and Rs.20,000/- for cost of litigation. During the pendency of maintenance petition, the Family Court passed order for interim maintenance of Rs.6,000/- for the 1st respondent and Rs.4,000/- for the 2nd respondent in total Rs.10,000/-. This interim maintenance was received between 2013-2020 by the respondents since the salary of the petitioner was attached, as a result, the interim maintenance amount regularly deposited in the 1st respondent's bank account. The petitioner's contention of purchasing a plot of 1,800/- sq.ft in the year 2008 and thereafter, putting up a construction at the cost of Rs.9,50,000/- in the year 2012 were all denied.



Likewise the petitioner's contention of incurring Rs.15,000/- for his mother's medical expense, his loan of Rs.10,00,000/- and the petitioner is now receiving only Rs.9,650/- after deduction from his pension, all disbelieved and rejected by the Family Court by a well reasoned order.

6.He further submitted that in the above proceedings, the 1st respondent examined herself as PW1 and marked Exs.P1 to P10. The petitioner examined himself as DW1 but no document marked. The Family Court on the evidence and materials produced gave a finding that the marriage between the petitioner and the 1st respondent held on 18.06.2007 and birth of female child and four years thereafter they got separated and for eleven years they are living separately, not disputed. Likewise with regard to filing of divorce petition by the petitioner in F.C.O.P.No.347 of 2014 and later dismissed for non-prosecution and no appeal pending, found undisputed. The petitioner's contention of 1st respondent employed as Teacher and received salary of Rs.12,000/- per month, purchase of property and putting up a construction by the petitioner were found not proved. Except for oral evidence, the petitioner not produced any documentary



evidence. Likewise, with regard to the petitioner's submission that the petitioner had been regularly paying the interim maintenance from the year 2013 to August 2020 showing his credibility and due to developments after discharge from army and now he is unable to now pay the maintenance disbelieved, found to be false. The petitioner's employer debited the maintenance amount directly from the petitioner's salary and paid to the respondents. Hence, this interim maintenance attachment are paid under compulsion. After discharge from army, the petitioner failed to pay any maintenance amount. The Family Court in the impugned order found that the petitioner not disputed the non payment of interim maintenance after August 2020. Further, the petitioner's plea of having no property to make payment disbelieved. Thus, the Family Court after ful-fledged trial passed the order of maintenance directing the petitioner to pay the maintenance to the respondents, which needs no interference.

7.In support of his submissions, the learned counsel for the respondents produced typed set to show for what reason the petitioner was discharged from the army and the petitioner having extra marital life and his



dual marriage is the reason for his discharge from the army.

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8.Considering the submissions and on perusal of the materials, it is seen that the trial Court on the evidence and materials rightly came to the conclusion finding that the marriage between the petitioner and the 1st respondent is not in dispute and also the birth of the 2nd respondent out of their marriage. The petitioner's contention has been considered in detail. The Family Court found that the petitioner discharged from the army and receiving pension and having properties, now transferred in the name of his childhood friend Sankar and the same property, the petitioner is cultivating. The petitioner has got milking cows making earnings through the agriculture. Further, the petitioner is now employed in a private firm after discharge from the army. The petitioner's contention that he has to take care of his aged mother's medical expense and the 1st respondent enjoyed the property purchased and construction put up by the petitioner, are not sustainable on the fact and circumstances of the case.



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9.It is seen that the petitioner has got sufficient means and the duty is cast upon him to maintain the respondents. The 1st respondent is jobless and the 2nd respondent is a school going minor child and she now attained puberty, both to be maintained by the petitioner. The Family Court held that whatever the interim maintenance paid by the petitioner to be given credit. After giving credit to the interim maintenance already paid, the difference alone to be paid for the relevant period and thereafter, for the rest of the period, the maintenance amount of Rs.8,000/- to the 1st respondent and Rs.6,000/- to the 2nd respondent in total Rs.14,000/- to be paid monthly along with the cost of Rs.5,000/-. This Court finds no reason to interfere with the well reasoned order passed by the Family Court. The petitioner's contention that there have been deduction and the petitioner is only receiving Rs.9,650/- for the total pension amount of Rs.28,00,000/- is not sustainable.

10.From the bank document which is annexed in the typed set of the petitioner, it is seen that the State Bank of India, Sripuram Branch, Vellore



Crl.R.C.No.1851 of 2023

District sanctioned loan for Rs.8,00,000/- to the petitioner on his application, dated 06.02.2023, which is after the petitioner discharged from the army and after the maintenance case filed by the respondents. Taking advantage of the same, the petitioner cannot claim deductions to his pension are made and he is unable to pay maintenance not acceptable. The deductions are creation of the petitioner which he now cannot site as an reason.

11.In view of the above, this Court is not inclined to entertain this criminal revision and the same is dismissed confirming the impugned order, dated 19.01.2020.

12.The respondents' contention is that the petitioner failed to pay the maintenance amount despite the impugned order, dated 19.01.2020. Hence, it is for the respondents to file appropriate petition before the Family Court, Vellore seeking enforcement of the impugned order.



CrI.R.C.No.1851 of 2023

WEB COPY

13.If any such petition is filed, the Family Court, Vellore to consider the same and pass orders on merits if required coercive orders can be passed so that the respondents are paid with the maintenance dues without any delay. The connected Miscellaneous Petition is closed.

07.12.2023

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

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To

The Family Court,
Vellore.



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CrI.R.C.No.1851 of 2023

M.NIRMAL KUMAR, J.

vv2

CrI.R.C.No.1851 of 2023

07.12.2023