



CrI.R.C.No.1397 of 2023
and CrI.M.P.No.11915 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

CORAM

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

CrI.R.C.No.1397 of 2023

and

CrI.M.P.No.11915 of 2023

N.Premkumar

... Petitioner

Vs.

1.P.Revathi

2.P.Nidhura

... Respondents

(Minor rep. by her mother and natural guardian P.Revathi, the first respondent)

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal Procedure Code to set aside the order of the learned Judicial Magistrate No.II, Kancheepuram in M.C.No.1 of 2020 dated 26.04.2023.

For Petitioner : Ms.B.Aswini



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ORDER

Challenging the orders dated 26.04.2023 made in M.C.No.1 of 2020 passed by the learned Judicial Magistrate No.II, Kancheepuram, the present revision is filed. The revision petitioner is the husband of the first respondent. The respondents 1 & 2 filed a petition under Section 125 Cr.P.C for maintenance.

2.The facts of the case of the respondents in brief are as follows

:

The marriage of the first respondent and the revision petitioner was solemnized on 02.02.2015 at Parasuraman Thirukovil, Thiruvallur as per the Hindu Rites and Customs. Though the first respondent was given 25 sovereigns of gold ornaments and a two wheeler during the marriage, the revision petitioner harassed her by demanding more dowry. Out of their wedlock, a male child, namely, Yojith was born on 14.11.2015. During May 2017, the revision petitioner demanded Rs.15,000/- from the first respondent and since she did not pay the said amount the revision



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petitioner left the matrimonial home and did not come back. He did not maintain the first respondent and her child though he is working as a teacher in Vivekananda CBSE School, Poonamallee and was earning a sum of Rs.40,000/- per month.

3.The revision petitioner filed a detailed counter affidavit before the learned Judicial Magistrate No.II, Kancheepuram by stating that it was the first respondent who left the matrimonial home without any valid reason and that he is earning only a sum of Rs.21,348/- per month. He therefore prayed for dismissal of the petition filed by the respondents.

4.The learned Judicial Magistrate No.II, Kancheepuram allowed the maintenance petition and directed the present revision petitioner to pay a sum of Rs.15,000/- per month to the respondents herein and a sum of Rs.3,000/- towards litigation expenses. Aggrieved over the said orders, the present revision is filed.



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5. Ms.B.Aswini, learned counsel for the revision petitioner contended that the revision petitioner is presently working in a private company earning a sum of Rs.15,000/- per month and that he was forcibly relieved from his earlier job on account of his frequent leave applications since he was unable to tolerate the mental torture meted out to him by the first respondent. According to her, the proceedings in H.M.O.P.No.207/2021 is still pending before the Family Court, Thiruvallur.

6.It is seen that the present revision petitioner did not adduce any documentary evidence to show that he is earning a sum of Rs.15,000/- per month only as stated by him. Initially, he admitted that his salary was Rs.21,348/-. Even now, the petitioner did not adduce any documentary evidence to show that where he is presently working and what his salary particulars. According to the respondents, the present revision petitioner is also a teacher by profession and he is taking tuition for 5th to 8th standard students. The trial Court after considering the entire aspects of the case had rightly awarded a sum of Rs.15,000/- to the



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respondents. All the observations made by the trial court are perfectly in

order. In this regard, the trial court order is extracted hereunder:

“8.Now let's decide to what quantum the petitioners are entitled to. The 1st petitioner filed the affidavit disclosing assets and liabilities. She had deposed that she is unemployed and has a share in the ancestral property. No such affidavit was filed on behalf of the respondent. However, in the counter affidavit, he had stated about the income and liabilities. Therefore, the contents in the counter affidavit is taken into consideration to determine the quantum of maintenance to be awarded. The grant of maintenance ought to be fixed only by taking into consideration of prevailing situation, earning capacity of the respondent herein and in accordance with the standard of life enjoyed by the spouse in her matrimonial home. The perusal of entire records of the petition as well as the documents filed in support of the same does not reflect the level of living standard enjoyed by the 1st petitioner in the house of respondent. Considering the above facts, this Court is of the view that an amount of Rs.7,500/- each, can be fixed as maintenance in the given facts and circumstances of



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the case. This court is of the view that a sum of Rs.7,500/- , each, in total Rs.15,000/- to the petitioners would be just and proper amount to be fixed as monthly maintenance towards livelihood, from the respondent herein. The petitioner is also entitled to claim of maintenance from the date of this order. By taking into consideration of the petition pending from the year 2020, this court is of the view that a sum of Rs.3,000/- would deem fit towards litigation expenses incurred by the 1st petitioner herein.

9.The respondent is directed to pay the monthly maintenance of sum of Rs.7,500/- each, in total Rs.15,000/- to the petitioners, on or before every 5th day of English calender month. Further, the respondent is also directed to pay a sum of Rs.3,000/- towards litigation expenses within a period of one month, from the date of having knowledge about the order.”

7. In my opinion, the order passed by the learned Judicial Magistrate, Kancheepuram does not require any interference as it is perfectly in order.



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8. In the result,

- i. the Criminal Revision is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.
- ii. The order dated 26.04.2023 in M.C.No.1/2020 passed by the learned Judicial Magistrate No.II, Kancheepuram, is confirmed.

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

To

1.The Judicial Magistrate No.II, Kancheepuram.



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R. HEMALATHA, J.
mtl

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