



Crl.R.C. No.1401 of 2023 & Crl.M.P. No.11932 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM

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

Crl.R.C.No. 1401 of 2023 &

Crl.M.P. No.11932 of 2023

Karthikeyan

...Petitioner

Vs.

1. Suganya
2. K.S.Krishanth
...Respondents

Prayer : Criminal Revision Case filed under Section 397(1) r/w 401 Cr.P.C. against the order dated 17.04.2023 in M.C. No.5 of 2019, on the file of the Judicial Magistrate No.1, Poonamallee.

For Petitioner : Mr. S. Jerome
For Respondents : Ms.S.S. Meenakumary

ORDER

Challenge in this Criminal Revision is made to the orders dated dated 17.04.2023 in M.C. No.5 of 2019, on the file of the Judicial Magistrate No.1, Poonamallee.

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2. The facts leading to the filing of the present Criminal Revision are as follows:

2.1. The revision petitioner is the husband and the 1st respondent is his wife. Their marriage was solemnised on 12.12.2010 at Jeevan Jothi Mahal, Porur, Chennai, and out of the wedlock, a male child, namely, K.S. Krishanth was born to them on 24.01.2012.

2.2 At the time of marriage the revision petitioner was working in Tata Consultancy Services (TCS) earning a sum of Rs.2,50,000/- per month. According to the 1st respondent, the revision petitioner did not visit her when she was in her parental home for delivery of her child and totally neglected her. She therefore, filed a petition under Section 125 Cr.P.C. in M.C. No.05/2019 before the Judicial Magistrate No.I, Poonamallee, seeking maintenance of Rs.80,300/- per month to her and her son (2nd respondent).



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2.3. The revision petitioner filed a detailed counter denying all the allegations. In the trial court, the 1st respondent examined herself and marked Ex.P1 to Ex.P7. The revision petitioner examined himself and marked Ex.R1 to Ex.R5. After full contest, the learned Judicial Magistrate No.I, Poonamallee, partly allowed the said Maintenance Case by directing the present revision petitioner to pay a sum of Rs.15,000/- per month to the 1st respondent and Rs.20,000/- per month to the 2nd respondent towards maintenance from the date of filing of the petition. It was further directed that the maintenance shall be paid on or before 5th of every English calendar month and the arrears of maintenance amount paid within 3 months from the date of the order.

2.4. Aggrieved over the same, the present Criminal Revision is filed.

3. Mr. S. Jerome, learned counsel for the revision petitioner contended that the 1st respondent during the course of cross examination admitted that she did not take steps to file a petition under Section 9 of



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the Hindu Marriage Act for restitution of Conjugal Rights though she is a practicing advocate. According to him the 1st respondent had left the matrimonial home without any valid reason. His further contention is that the revision petitioner is presently working in Tata Consultancy Services earning only a sum of Rs.63,000/- per month and therefore he is not in a position to pay the maintenance of Rs.35,000/- to the respondents as he has to maintain his aged mother and his widowed sister and her two children. He therefore prayed for reducing the maintenance of Rs.35,000/- awarded by the trial court.

4. Per contra, Ms.S.S. Meenakumary, learned counsel for the respondents drew the attention of this court to the pay-slip of the revision petitioner and contended that the revision petitioner is presently working for TCS earning a monthly salary of Rs.1,40,417/- and therefore, the amount awarded by the trial court towards maintenance is perfectly in order. Her further contention is that the 1st respondent is a junior advocate practicing in Ambattur Court and with her meagre income, she is unable to maintain herself and her son who is aged 11 years. It is also



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her contention that the father of the 1st respondent is a retired Government Servant and with his pension he has to maintain her two daughters and one son.

5. The trial court had negated the contention of the revision petitioner that the 1st respondent had left the matrimonial home without any reasonable cause. In fact, the revision petitioner as R.W.1 in his evidence had deposed that the 1st respondent went to her parents' house for delivery of the child and that thereafter he did not go to her house. The revision petitioner had further deposed that during the first birthday function of the 2nd respondent, he was only standing outside their house. In this regard, the contention of the counsel for the revision petitioner is that the revision petitioner was not invited to the house of the 1st respondent. However, it is seen from the evidence of R.W.1 that he was residing in South America from 2013-2020 and the 1st respondent had left the matrimonial home only for delivery of her child. Therefore, in such circumstances it cannot be said that she left the matrimonial home without sufficient cause. As regards the quantum of maintenance to be



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awarded to the respondents, it is seen from the records that the revision petitioner is at present working in Tata Consultancy Services, earning a sum of Rs.1,40,417/- per month, out of which a sum of Rs.17,482/- is deducted towards Income Tax. Hence, his salary is Rs.1,22,935/-.

6. In the present case it is clearly demonstrated by the 1st respondent that she does not have adequate source of income to maintain herself as well as her minor child, who is just 11 years of age. Considering the financial status of both the parties, the trial court had directed the present revision petitioner to pay a sum of Rs.15,000/- per month to the 1st respondent and Rs.20,000/- per month to the 2nd respondent towards maintenance. By no stretch of imagination, the amount awarded by the trial court to the respondents towards maintenance can be said to be on the higher side. The present revision petitioner being the husband of the 1st respondent and father of the 2nd respondent is bound to maintain them. In the circumstances, I do not see any reason to interfere with the orders passed by the trial Court.



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7. In the result,

- i. the Criminal Revision is dismissed. Consequently connected miscellaneous petition is closed.
- ii. the order dated 17.04.2023 in M.C. No.5 of 2019, on the file of the Judicial Magistrate No.1, Poonamallee. is confirmed.

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Index: Yes/No
Internet: Yes/No
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R. HEMALATHA, J.
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To

Judicial Magistrate No.1, Poonamallee.

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