



Crl.R.C. Nos. 1448 & 981 of 2023 & Crl.M.P.No.12634 of 2023

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DATED : 27.09.2023

CORAM

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

Crl.R.C. Nos. 1448 & 981 of 2023 & Crl.M.P.No.12634 of 2023

Knox M Noel ...Petitioner in Crl.R.C. No.1448/2023
...Respondent in Crl.R.C. No.981/2023

Vs.

1. R.Pearlin Victor

2. Johanna Noelle

(Minor aged 4 years) ...Petitioners in Crl.R.C. No.981/2023
...Respondents in Crl.R.C. No.1448/2023

Common Prayer : Criminal Revision Cases filed under Section 397 r/w 401 Cr.P.C. against the order dated 21.03.2023 in M.P. No.519 of 2019 in M.C.No.481 of 2018, on the file of the V Additional Family Court, Chennai.

Crl.R.C. No.1448 of 2023

For Petitioner : Ms.A.Arulmozhi
For Respondents : Mr.T.C.S. Raja Chockalingam

Crl.R.C. No.981 of 2023

For Petitioners : Mr.T.C.S. Raja Chockalingam
For Respondent : Ms.A.Arulmozhi



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COMMON ORDER

Challenging the orders, granting interim maintenance, dated 21.03.2023 passed in M.P.No.519 of 2019 in M.C.No.481 of 2018, by the V Additional Family Court Judge, Chennai, R.Pearlin Victor (wife) and Johanna Noelle (daughter), filed Crl.R.C. No.981/2023 seeking enhancement of maintenance amount, while Knox M Noel (husband) filed Crl.R.C. No.1448/2023 to set aside the said orders.

2. For the sake of convenience, the parties are referred by their names.

3. The minimum facts that are required for disposing the present Criminal Revision Cases are as follows:

3.1. The marriage between Knox M Noel and R.Pearlin Victor was solemnised on 15.04.2013 as per Christian rituals and out of the said wedlock, Johanna Noelle was born on 20.12.2015.



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3.2. The Knox M Noel/husband deserted his wife and daughter on 23.09.2018 and therefore they had to take shelter in the house of the brother of R.Pearlin Victor and filed M.C. No.481/2018 before the V Additional Principal Judge, Family Court, Chennai, praying to direct the Knox M Noel/husband to pay a monthly maintenance of Rs.1,00,000/- to them. During the pendency of M.C.No.481/2018, they filed a petition under Section 125(3) Cr.P.C., in M.P. No.519/2019 praying to direct the husband to pay an interim maintenance of Rs.1,00,000/- per month to them.

3.3. According to R.Pearlin Victor, the husband paid only a sum of Rs.24,000/- during 2019 and did not pay any amount even for the educational expenses of his own daughter. It is her contention that the respondent was initially working as a Senior Manager in Hyundai, Sriperumbudur Factory and presently working for Aptic Company, Oragadum, earning a sum of Rs.1,50,000/- per month apart from receiving Rs.10 lakhs bonus per year. It is also her contention that the respondent owns properties worth more than 3 crores and therefore the



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petitioners must be paid monthly maintenance of Rs.1,00,000/-

3.4. The husband filed a detailed counter denying the allegations of his wife. According to him his wife is well educated and therefore she can take care of her family.

3.5. The learned Trial Court Judge allowed the petition by directing the husband to pay a sum of Rs.20,000/- per month to the wife and Rs.38,000/- per month to the daughter (Totally a sum of Rs.58,000/-) from the date of the petition i.e. 26.04.2019 till the disposal of M.C.No.481/2018, by observing thus:

27. During the course of argument advanced by the counsel who assist the respondent has not disputed the Serial No.7 of the affidavit of Assets and Liabilities filed by the petitioners pertain to the Food, Transportation, incidental, school fees of the child and other expenses, school uniform of the child. Since no proof submitted towards medical expenses of Rs.10,000/- by the petitioner and the respondent also objected the claim of Rs.10,000/- towards medical expenses without any supporting document. Therefore, the



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petitioners are entitled a sum mentioned in Serial No.7 pertain to the Food, Transportation, incidental (ironing and washing, to wife Rs.2,000/- and to daughter Rs.1,000/-), school fees of the child and other expenses, school uniform of the child totally a sum of Rs.25,000/- + Rs.15,000/- + Rs.3,500/- + Educational expenses of minor child Rs.11,542/- per month + Rs.2,500/- for uniform fee, totally Rs.57,542/- rounded off to Rs.58,000/- per month."

3.6. Aggrieved over the quantum of maintenance awarded by the Trial Court Judge, the present Criminal Revision Cases are filed as stated above.

4. Mr.T.C.S. Raja Chockalingam, learned counsel for the wife and daughter contended that the Johanna Noelle (daughter) is actually studying in Green Field International School, Madhavaram, Chennai, and the mother has to spend huge amount for studies and also for extra curricular activities of the child. According to him though the husband is gainfully employed in a private concern earning more than Rs.2,50,000/- per month, the trial court had directed the respondent to



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pay only a sum of Rs.58,000/- per month. He therefore, prayed for enhancing the maintenance amount.

5. Per contra, Ms.A.Arulmozhi, learned counsel appearing for the husband would contend that the 1st petitioner is employed in Green Field International School, Madhavaram, Chennai, and that she has not shown her actual income in her Assets and Liabilities Statement. It is her contention that the trial court has not properly analysed the evidence on record. She drew the attention of this Court to various heads under which, the wife had sought for maintenance and contended that the wife had demanded payment of Rs.69,250/- for 6 months towards school fees of the child which included term fees and transportation to the school and other incidental expenses. Her specific contention is that due to COVID 19 pandemic situation all the schools were closed and therefore no amount can be awarded towards transportation. It is her further contention that the trial court committed an error by directing the husband to pay a sum of Rs.58,000/- per month from the date of petition i.e. 26.04.2019. She strenuously argued that the wife is a post graduate



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and she was actually employed and this has been suppressed in her Assets and Liabilities Statement. When this was brought to the knowledge of the Court by the husband, she immediately resigned her job. She also pointed out several discrepancies in the petition and in the Assets and Liabilities Statement and stated that the husband can pay only a sum of Rs.20,000/- per month to his child. It was also argued that the trial court had failed to take into consideration the fact that the husband had transferred several amounts for the educational expenses of his daughter, for which he had filed the statements of Bank Account issued by the State Bank of India.

6. At the outset, it may be observed that M.C. No.481/2018 was filed to grant interim maintenance of Rs.1,00,792/- to the wife and the daughter by the husband. The wife in her petition had indicated various heads under which she requires money and the same is extracted hereunder:



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Medical Expenses	Rs.10,000/-
Food	Rs.25,000
Transportation, Phone, water	Rs.15,000/-
Incidental (iron, washing)	Rs.3,500/-
School fees of the child (Term Fees) + (school Transportation per Term) and other expenses	Rs.36,250/- +Rs.18,000 + Rs.15,000/- = Rs.69,250/- for six months Rs.11,542/- per month
School Uniform for the child and dress materials for the applicant and child	Rs.30,000/- per year Rs.2,500/- month
Insurance (L.I.C) (per month)	Rs.2,000/-
Medical Insurance of the Applicant and the child	Rs.15,000/- per year Rs.1,250/- per month
Other sundry expense including Advocate fees	Rs.30,000/- per month
Total	Rs.1,00,792/-

The trial court had infact granted only a sum of Rs.58,000/- to both the wife and daughter. The specific contention of the wife is that she is not employed anywhere and even if it is shown that she was previously working in Green Field International School, Chennai, her salary was not even Rs.15,000/- per month and that she is not working anywhere at present. As already observed, the wife though had sought for Rs.1,00,792/-, the trial court had awarded only a sum of Rs.58,000/- per month. In fact the trial court calculated the amounts required for the



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maintenance of the child and wife meticulously and arrived at the figure as Rs.58,000/- per month. The various discrepancies pointed out by the counsel for the husband can be gone into only at the time of full fledged trial in the trial court. Since the husband is working for Aptic Company, Oragadam, earning a sum of Rs,1,50,000/- per month, a sum of Rs.58,000/- awarded by the trial court cannot be said to be either on the higher side or on the lower side. The trial court in its wisdom has taken into consideration the social status of the parties and the attendant circumstances and by a well considered order had awarded a maintenance of Rs.58,000/- per month to the wife and the daughter. Learned counsel appearing for the wife contended that the wife was previously employed as a French teacher in a school and with her meagre income she was unable to maintain herself and her daughter and therefore she has to financially depend on her brother. The educational qualification of the wife shows that she is a post graduate in Science and the pay slip for July 2021 of the wife shows that her salary was Rs.21,645/-. With this meagre amount, definitely she cannot maintain her family . It is settled law that there cannot be any straight jacket



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formula for awarding maintenance and in the instant case, the trial court by considering the various heads under which amounts are needed, had awarded interim maintenance. The transportation to school during COVID 19 period cannot be said to be wrong in view of the fact the mother had to buy various electronic gadgets for the child for attending on-line classes. In the circumstances, I do not see any reason to interfere with the findings recorded by the trial court.

7. In the result,

- i. the Criminal Revision Cases are dismissed. Consequently connected Criminal Miscellaneous Petition is closed.
- ii. the orders dated 21.03.2023 in M.P. No.519 of 2019 in M.C.No.481 of 2018, on the file of the V Additional Family Court, Chennai, is confirmed.

27.09.2023

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

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