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Crl.R.C.No.915 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

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

Crl.R.C.No.915 of 2023 and
Crl.M.P.Nos.7514 and 13910 of 2023

S.B.Manikanda Nithin

... Petitioner

Vs.

1. C.Deepika

2. Master M.Mithran (Minor)

... Respondents

Prayer: Criminal Revision Case filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the order, dated 18.10.2022 made in M.P.No.697 of 2019 in M.C.No.438 of 2018 on the file of the II Additional Principal Family Court, Chennai.

For Petitioner : Mr.N.Kumar Rajan

For Respondents : Mr.C.Vidhusan

ORDER

Challenging the orders dated 18.10.2022 passed in M.P.No.697 of 2019 in M.C.No.438 of 2018 by the learned III Additional Principal Family Judge, Family Court, Chennai, the present Criminal Revision is filed.



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2. The revision petitioner is the husband, while the 1st and 2nd respondents are his wife and son respectively. The respondents filed a petition in M.C.No.438 of 2018 before the III Additional Principal Family Court, Chennai under Section 125 Cr.P.C., seeking maintenance of Rs.50,000/- per month. During the pendency of the said petition, the respondents filed M.P.No.697 of 2019 under Section 125(3) Cr.P.C., seeking interim maintenance of Rs.50,000/- per month. The revision petitioner filed a detailed counter. The learned III Additional Principal Judge, Family Court, Chennai vide her orders dated 18.10.2022 allowed the petition, directing the petitioner to pay a sum of Rs.15,000/-p.m towards interim maintenance to the 2nd petitioner/his son. Aggrieved over the said order, the present revision is filed by the petitioner.

3. Mr.N.Kumar Rajan, learned counsel for the petitioner contended that the revision petitioner is actually earning only a sum of Rs.25,000/- per month and in order to substantiate the same, the revision petitioner has filed his salary certificate issued by the Adhiev Nano India Private Limited where he is employed as a Project Manager. The



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petitioner has also filed the Income tax returns for the assessment year 2018-2019 in which the salary of the petitioner is shown as Rs.25,000/- per month. According to him, the trial Court did not take these documents into consideration while awarding a sum of Rs.15,000/- as interim maintenance to the 2nd respondent.

4. Per contra, Mr.C.Vidhusan, learned counsel for the respondents contended that the trial Court after considering the evidence adduced on both parties, had rightly directed the revision petitioner to pay a sum of Rs.15,000/- to the 2nd respondent herein and that the present revision petitioner did not pay any maintenance from July 2023 to till date.

5. It is seen from the records that the educational qualification of the revision petitioner is M.Sc., (I.T.) MBA. As rightly pointed out by the learned Trial Court Judge, the salary certificate filed by the petitioner before the trial Court did not contain any date or year. The revision petitioner did not produce the statement of Bank Accounts. It is also



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pertinent to note that the revision petitioner did not file Form 16 to show his actual income. When the revision petitioner is highly qualified, it is difficult to believe that he is earning only a sum of Rs.25,000/- per month. The learned Trial Court Judge in paragraph No.9 has observed thus:

“9. The 1st petitioner is employed and even as per her own salary slip she is getting Rs.81,699/- after deductions. The respondent is M.Sc., (I.T) M.B.A. and the salary certificate does not contain any date and year. Based on it, and the I.T. returns, it cannot be concluded that his salary is only Rs.24,817/-. If his version is true, he should have produced his 3 years bank statement. For non production of bank statement, there is no explanation on his side. The respondent has not furnished his salary before this Court. The respondent has suppressed his income. It is premature to decide the question of desertion. Since the 1st petitioner is earning she is not entitled to get any maintenance. The respondent has equally got the responsibility to maintain his child. Considering the facts and circumstance of the case, the respondent is directed to pay a sum of Rs.15,000/- towards interim maintenance to the petitioner 2nd petitioner till the disposal of the MC.”



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6. The above observations of the learned Trial Court Judge cannot be found fault with and the revision petitioner is bound to maintain his child. Moreover, the amount awarded by the learned Trial Court Judge to the 2nd respondent is not on the higher side, considering the social status of both the parties. Therefore, I do not find any reason to interfere with the orders passed by the trial Court.

7. Accordingly, the Criminal Revision is dismissed. The learned III Additional Principal Family Court, Chennai is directed to dispose of M.C.No.438 of 2018 on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.

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To

The III Additional Principal Family Court,
Chennai.

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