



Crl.R.C.(MD).No.562 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.09.2023

Delivered on : 02.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.562 of 2023

and

Crl.M.P(MD)No.8075 of 2023

Arun

.. Petitioner/Respondent

Vs.

Mahalakshmi

.. Respondent/Petitioner

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records of the learned Judge, Family Court, Tirunelveli in M.C.No.39 of 2021 and set aside the order dated 26.04.2023.

For Petitioner : Mr.R.Rengarajan

For Respondent : Mr.K.P.Narayana Kumar



Crl.R.C.(MD).No.562 of 2023

WEB COPY

ORDER

The petitioner has filed this petition against the impugned maintenance award dated 26.04.2023 passed in M.C.No.39 of 2021, on the file of the learned Judge, Family Court, Tirunelveli, wherein, the Court below directed to pay monthly maintenance of Rs.15,000/- to the respondent/wife.

2. The petitioner married the respondent on 29.08.2018. After marriage, the petitioner/husband and her family members caused cruelty to the respondent/wife and also demanded dowry and hence there was a discord between them and she left the matrimonial home. In the said circumstances, the petitioner/husband filed HMOP.No.189 of 2019 before the Family Court for the relief of divorce. The respondent/wife also filed the restitution of conjugal rights petition in HMOP.No.229 of 2020. Now the petitioner is living with her aged parents and hence, she is unable to maintain herself and hence, she filed the maintenance petition before the Family Court, Tirunelveli.



Crl.R.C.(MD).No.562 of 2023

3. In the maintenance petition, the respondent/wife made the averment that her husband/petitioner herein was working as Senior Technical Consultant in NCS Pvt. Ltd, Singapore and earning Rs.75,000/- per month. The respondent/wife is unemployed and hence she filed the maintenance petition. The petitioner/husband filed a counter denying the allegation made in the maintenance petition and admitting the relationship between them and till date there is no legal divorce granted by the competent Court.

4. The learned counsel for the petitioner submitted that due to the complaint made by the respondent/wife, the petitioner lost his job and he is now unemployed. Hence, he seeks for dismissal of the maintenance order.

5. The learned trial Judge considered the documents Ex.P1 to Ex.P6 and Ex.R1-xerox copy of the salary slip, examined the respondent as PW.1 and examined the petitioner as RW.1 and granted maintenance of Rs.15,000/- per month. Challenging the same, he filed the present Criminal Revision Case.



Crl.R.C.(MD).No.562 of 2023

WEB COPY

6. The learned counsel for the petitioner submitted that they produced Ex.P6-worker's visa. The respondent filed a counter denying the allegation made against him and this Court received the salary receipt in which the monthly salary is stated Rs.75,000/-. He specifically stated that in view of the complaint made by her, the petitioner lost his job at Singapore. Hence, he filed a petition for divorce and the same is pending before the Court below. The petitioner is not entitled to any maintenance on the ground that without any reason, she left the matrimonial home. The learned trial Judge, after considering the evidence, granted the maintenance of Rs.15,000/- per month to the respondent/wife. The learned trial Judge considered Ex.P6-visa issued to work at Singapore in which it is stated that his income is 5000 Singapore Dollars equal to nearly Rs.3,00,000/-. Eventhough the learned trial Judge considered the fact that the respondent lost his job and he was working as a freelancer and earning meagre amount, granted maintenance of Rs.15,000/- Considering the facts of the case, education qualification, job and income and the earning capacity of the petitioner and social economic status of the parties and also considering the present day cost of living, granted the



Crl.R.C.(MD).No.562 of 2023

above said compensation. Challenging the same, the petitioner/husband filed this revision.

7. The learned counsel for the petitioner submitted that the respondent wantonly filed the maintenance petition. The marriage is irretrievably broken down and both were living together for a period of 15 days only and thereafter they were separated. He further submitted that Ex.P6-visa is only an entry pass to Singapore and the same cannot be treated as proof of employment and income. The learned trial Judge without considering the same, granted maintenance. He further submitted eventhough the entitlement of the maintenance claimed by the respondent/wife is maintainable, the petitioner's capability, on account of the fact that he lost his job, has not been considered by the learned trial Judge. Hence, the learned counsel seeks for dismissal of the order granted by the learned trial Judge.

8. The learned counsel for the respondent/wife submitted that the petitioner/husband is in sound financial position. He and his family members are wealthy. He regularly attended the Court proceedings



Crl.R.C.(MD).No.562 of 2023

coming by car. He further submitted that the respondent/wife is very weak and he has not taken any step to take care of her and she is unemployed. All the original certificates of the respondent/wife is under the custody of the petitioner and hence, she is not able to secure job. Further the learned counsel submitted that the petitioner is duty bound to maintain her in view of the pendency of the divorce proceedings. Hence, the learned trial Judge correctly granted maintenance of Rs.15,000/- considering the nature of the job of the petitioner and hence there is no need to interfere the maintenance order granted by the learned trial Judge.

9. This Court has considered the rival submissions made by both side and perused the records and also the impugned order.

10. The relationship was admitted and the proceedings for divorce and restitution of conjugal rights are pending between the parties before the appropriate Court and hence, this Court refrains from discussing about the discord between the parties.



Crl.R.C.(MD).No.562 of 2023

WEB COPY

11. The petitioner contented that he lost his job in Singapore and he is working as a freelancer and earned only meagre income. To prove the same, he did not produced any evidence. Per contra, wife namely the respondent produced Ex.B6 Visa. In the said Ex.B6, it is stated that he is allowed to work and his monthly income was mentioned as Rs.5,000/- Singapore Dollars. The respondent specifically deposed that the petitioner is in sound financial position and he regularly attended the Court proceedings coming by car. Further, the respondent specifically deposed that due to her health condition, she is unemployed. Apart from that, the respondent specifically deposed that all her original certificate is in the custody of the petitioner and hence, she is not able to secure any job. In addition to that, the petitioner initiated the divorce proceedings, hence, he is duty bound to give maintenance to his wife. The petitioner is a healthy man and he is duty bound to maintain his wife. The '**Manu**' says it is the duty of the husband to maintain his age old parents, children and wife by doing any misdeeds. Therefore, the plea of the husband he has not been earning sufficient income is not a ground to disown his liability to pay the monthly maintenance to his wife. In such



Crl.R.C.(MD).No.562 of 2023

WEB COPY

circumstances, the learned trial Judge granted only Rs.15,000/- as monthly maintenance considering the education qualification, job and income and the earning capacity of the petitioner and social economic status of the parties and also considering the present day cost of living. This Court finds no perversity in the finding of the learned trial Judge in granting maintenance of Rs.15,000/- per month to the respondent herein.

12. Accordingly, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed.

02.11.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
PJJ

To

- 1.The Judge,
Family Court,
Tirunelveli.
- 2.The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C.(MD).No.562 of 2023

K.K.RAMAKRISHNAN, J.

PJL

**Predelivery Order made in
Crl.R.C(MD)No.562 of 2023**

02.11.2023