



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19/01/2023

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CORAM:

**THE HON'BLE MR JUSTICE G.ILANGO VAN**

Crl.RC(MD)No.790 of 2022  
and  
Crl.MP(MD)No.9842 of 2022

R.Ashok : Petitioner/Respondent

Vs.

1.V.Arthi

2.Minor A.Maya

(R2 minor is represented by  
her mother and natural  
guardian the 1<sup>st</sup> respondent  
V.Arthi)

: Respondents/Petitioners

**Prayer:** Criminal Revision is filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for records pertaining to the order, dated 04/04/2022 in MC No. 5 of 2021 made by the Family Court, Karur and set aside the same.

For Petitioner : Mr.Vidhyasagar  
for Mr.Balaji Thirumoorthy  
For Respondents : Mr.R.M.Arun Swaminathan

**O R D E R**

This criminal revision has been filed seeking to set aside the order passed in MC No.5 of 2021, dated 04/04/2022 by the Family Court, Karur



## **2.The facts in brief:-**

The marriage between the petitioner and the first respondent took place, on 22/02/2019 as per their customary rites. Because of the marriage, a female child was born. Due to it, the husband was also harassing her. Later, they shifted their residence to Chennai. Thereafter, the wife became pregnant. Even then, she was subjected to harassment. On 07/12/2019, she was assaulted by her mother-in-law and snatched her jewels. Later, on 08/02/2020, the husband along with his relatives came to her house and demanded consent for divorce. In the meantime, a female child was born, on 18/05/2020. The child was not visited by the husband. They also made arrangement for second marriage to the husband. So the wife gave a complaint before the Pasupathipalayam police station. Later, filed DVP No.204 of 2020 and now, it is pending. She was forcibly driven out of the matrimonial home; the husband is working as a Sub-Inspector Police and earning Rs.1,00,000/- per month. Seeking maintenance amount of Rs.50,000/- for herself and the children, the wife filed a petition.

3.That was resisted by the husband stating that the wife is practising as an Advocate in Karur and getting Rs.30,000/- by way of professional income. More-over, even before the marriage, she was running a small scale business. So sufficient income is available to the wife to



maintain herself. The business ran by the wife was about to be closed and he only, financially helped them. On 21/04/2019, without any sufficient reason, by picking up quarrel, she deserted the family and went to Karur. She also gave the jewels to her father, without his knowledge. He waited till the birth of the child, but the birth was also not intimated to them. On her own accord, now she is living separately. So she is not entitled for maintenance.

4,.At the conclusion of the trial, the trial court taking into consideration of the income of the petitioner ordered, Rs.20,000/- as maintenance to both of them viz., Rs.15,000/- to the wife and Rs.5,000/- to the child.

5.Challenging the above said order, this criminal revision has been preferred by the husband.

6.Pending enquiry, the matter was referred to mediation, but it could not be settled for one or other reasons. Now the matter is heard on merits. The learned counsel appearing for the petitioner would submit that only quantum is disputed, apart from that voluntary desertion also.

7.Heard both sides.



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8.The marriage between the parties and the birth of the second respondent are not disputed.

9.It is also not in dispute that both are living separately. The reason for separation as usual is an issue of allegation and counter allegation against each other.

10.Now, it is the case of the wife that she was driven out of the matrimonial home illegally, demanding money, etc.. It is the turn of the husband to make allegation that the wife only left the matrimonial home voluntarily. So she is not entitled for maintenance.

11.But reading of the petition filed by the first respondent shows that the husband filed HMOP No.200 of 2020 against the wife and that was transferred to Karur, on the basis of the order passed by this court in Tr.CMP(MD)No.328 of 2020. What happened after the above said transfer, no document has been produced.

12.In view of the above said development, it is seen that the possibility of of the reunion is to remote nor. At whose fault, the above separation took place is a matter for consideration in the divorce proceedings. So this court need not go into the above said aspect. This



court confines itself only with regard to the quantum of maintenance as to the resources available to the parties.

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13.It is not in dispute that the first respondent is an Advocate by profession. It is also contended that one small scale business was run by the wife before the marriage. But it was admitted by the husband that it was about to be closed. There was no evidence available on record to show that the business is also continued by the first respondent. But even this contention might not be right, in view of the fact that the Advocates are not entitled to do private business and if they are doing private business, they are liable to be proceeded by the Bar Council. So this contention cannot also be accepted in the absence of any concrete evidence.

14.Similarly, the contention that the first respondent is looking after the business run by her mother is also without any evidence. So in the absence of any proof with regard to the monthly income of the first respondent, the contention that she is sufficiently earning cannot be accepted.

15.Now regarding the income of the petitioner, Ex.P4 has been produced, wherein it has been found that his



monthly salary is Rs.71,445/-. After deduction, he is getting Rs.64,462/- per month. The maintenance amount of Rs.20,000/- to both the wife and the children comes only 1/3<sup>rd</sup> of the monthly salary of the husband, which cannot be considered to be excessive or luxurious in nature. So, I find no reason to interfere into the order of the trial court.

16.In the result, the criminal revision fails and the same is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

**19/01/2023**

Index:Yes/No  
Internet:Yes/No  
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To,

The Family Court,  
Karur.

**G.ILANGOVAN, J**



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