



CrI.R.C.(MD).No.872 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated 11.08.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.RC(MD)No.872 of 2023
and
CrI.M.P.(MD)No.11595 of 2023

R.Palanivel

.. Petitioner

Vs.

Janaki

.. Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records and set aside the order in M.C.No.7 of 2022 on the file of the learned Judge, Family Court, Thanjavur dated 20.05.2023 and allow this Criminal Revision Case.

For Petitioner : Mr.S.Prabha,
for Mr.S.Gokul Raj

ORDER

The petitioner has filed this petition against the impugned maintenance award dated 20.05.2023 passed in M.C.No.7 of 2022, on the file of the learned Judge, Family Court, Thanjavur, wherein, the Court below directed the petitioner to pay monthly maintenance of Rs.750/- to



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the respondent/wife.

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2.The petitioner married the respondent in the year 1987. During their wedlock, one male child was born to them. Before this marriage, the petitioner had married one Tamilarasi and through her he has three children (one female child and two male children). In the year of 1986, the said Tamilarasi died leaving her three children. Thereafter, the petitioner married the respondent herein and were living together with their four children. After some time, some dispute arose between them. Therefore, the petitioner and the respondent were separated. Hence, the respondent herein has filed a petition in M.C.No.7 of 2022, seeking maintenance from her husband, before the Family Court, Thanjavur.

3. The learned trial Judge considered the documents Ex.P1 to Ex.P3 and Ex.R1 and also the evidence of P.W.1(wife) and the evidence of R.W.1, and granted the maintenance.

4.The learned counsel for the petitioner submitted that he is receiving only a sum of Rs.18,000/- as pension and the same is not even



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sufficient to meet his own expenditure. In the said circumstances, the trial Court has granted a sum of Rs.3,000/- as maintenance to the respondent, which is not proper. He also stated that all the properties were given to his children. Hence, the said maintenance award is not appropriate and hence, he seeks to allow this case.

5. The learned counsel for the respondent/wife submitted that the learned trial Judge after considering the entire documents and the other evidence adduced, has granted a sum of Rs.3,000/- as monthly maintenance. The same is in accordance with law. Therefore, there is no need to interfere with the impugned order passed by the trial Court.

6. This Court considered the rival submission made by the learned counsel appearing on either side and perused the materials available on record.

7. Even though the petitioner is aged about 70 years, he is receiving pension of Rs.18,000/-. As a husband he owes a duty to maintain his wife. From the records, it is seen that the petitioner is



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receiving a sum of Rs.18,000/- as pension, and the award of monthly maintenance as Rs.3,000/- is not excessive.

8. The Hon'ble Supreme Court issued the following guidelines in the case of ***Rajnesh v. Neha, (2021) 2 SCC 324 to determine the monthly maintenance:***

- “1. Status of the parties.*
- 2. Reasonable wants of the claimant.*
- 3. The independent income and property of the claimant.*
- 4. The number of persons, the non-applicant has to maintain.*
- 5. The amount should aid the applicant to live in a similar lifestyle as he/she enjoyed in the matrimonial home.*
- 6. Non-applicant's liabilities, if any.*
- 7. Provisions for food, clothing, shelter, education, medical attendance and treatment, etc. of the applicant.*
- 8. Payment capacity of the non-applicant.*
- 9. Some guesswork is not ruled out while estimating the income of the non-applicant when all the sources or correct sources are not disclosed.*
- 10. The non-applicant to defray the cost of litigation.*
- 11. The amount awarded under Section 125 CrPC is adjustable against the amount awarded under Section 24 of the Act.”*

9. The learned trial Judge considering the income and earning capacity of the petitioner/husband and the socio economic status of the parties and also considering the present cost of living, granted



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maintenance of Rs.3,000/-, which is in the considered opinion of this Court, is not exorbitant. Hence, this Court does not find any merit in this petition and this Criminal Revision Petition is liable to be dismissed.

10. In the result, this Criminal Revision Case is dismissed. The impugned order passed by the learned Judge, Family Court, Thanjavur, in M.C.No.7 of 2021 dated 20.05.2023, is hereby confirmed. Consequently, connected miscellaneous petition is closed.

11.08.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
sbn

To

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



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K.K.RAMAKRISHNAN, J.

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