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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06/06/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.OP(MD)No.21349 of 2022

and

Cr1.MP(MD)No.14973 of 2022

C.Ramesh : Petitioner/Petitioner

Vs.

1.Minor G.R.Vibin Sre

2.Mrs.K.Gowri

(Minor represented by his
mother/natural guardian

2nd respondent herein) : Respondents/Respondents

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to set aside the order of the Principal District and Sessions Judge at Tiruchirappalli in Criminal Revision Case No.23 of 2022, dated 11/07/2022.

For Petitioner : Mr.C.Ramesh
(Party-in-person)

For Respondents : Mr.C.K.M.Appaji

**ORDER**

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This criminal original petition has been filed seeking quashment of the case in Criminal Revision Case No.23 of 2022 on the file of the Principal District Court, Trichy.

2.The facts in brief:-

It is a matrimonial issue. The wife is shown as the second respondent in this matter, filed a petition under section 125 of the Criminal Procedure Code seeking maintenance for her minor child in MC No.11 of 2017 before the Chief Judicial Magistrate, Trichy. After completing the enquiry, the Chief Judicial Magistrate, Trichy, by order, dated 07/12/2019 allowed the petition directing this petitioner to pay a sum of Rs.15,000/- as maintenance for maintaining the child, till the minor become major. Apart from that, it is also directed to deposit the monthly maintenance before the court.

3.Against the above said order, this petitioner preferred revision before the Principal District Judge, Trichy in Criminal Revision Case No.23 of 2022. That was partly allowed, by reducing the maintenance amount to



Rs.13,000/-. Against which, no further proceedings were taken by the minor through his mother.

4.Challenging the above said Revisional Court order, this petition has been filed by the husband solely on the ground that neither the trial court, nor the Revisional Court took into account the earnings of the wife. Only a short point has been raised in this petition, which is legal in nature.

5.Heard both sides.

6.We need not trouble this order by extensively quoting the factual issue. Sufficient to mention only the relevant facts for disposing this petition.

7.Maintenance petition was filed seeking maintenance only for the minor namely G.R.Vibin Sre on the ground that because of the matrimonial issue between the husband and wife, assault was made upon the wife. Even though, attempt was made to make a compromise, it failed. Being the father, he has to maintain the minor child.



8. That was resisted by the husband stating that the allegations made by the wife are not true and matrimonial issue arose only out of the attitude and conduct of the wife; Nothing has been stated with regard to his duty to maintain the minor child.

9. The Enquiry Court has also found that both of them namely the parents are now well placed in the society and earning sufficiently. This petition was filed when the minor was one year old. The wife is working as a teacher and she only taking care of the child. So, on that ground, maintenance amount of Rs.15,000/- was fixed. Before the Revisional Court, the wife is drawing a salary of Rs.59,199/- and this petitioner was drawing a salary amount of Rs.21,420/-, of course, there was some deduction in the monthly salary of both husband and wife. But the monthly salary, that was drawn by the petitioner in the month of May 2019 was approximately totaling as Rs.64,000/-, of course, there was some deduction, it was contended by the petitioner that he has to take care of his old aged parents.



10. Pointing out that the wife is drawing more than Rs.60,000/- per month, the amount was resisted. By taking into account the take home salary of this petitioner, it was reduced to Rs.13,000/-. But nowhere in the order, the guidelines that have been imposed by the Hon'ble Supreme Court in the case of **Rajnesh Vs. Neha and Another**, has been taken into account. The Hon'ble Supreme court has formulated the following principles as under:-

"(d) Maintenance of minor children

91. The living expenses of the child would include expenses for food, clothing, residence, medical expenses, education of children. Extra coaching classes or any other vocational training course to complement the basis education must be factored in, while awarding child support. Albeit, it should be a reasonable amount to be awarded for extracurricular/coaching classes, and not an overly extravagant amount which may be claimed.

92. Education expenses of the children must be normally borne by the father. If the wife is working and earning sufficiently, the expenses may be



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shared proportionately between the parties."

11.From the above said observation, it is seen that both were employed and both are equally responsible to take the financial responsibility of the children. Here, not only the Enquiry Court, but also the Revisional Court has not recorded any reason or reason for fixing the maintenance amount of Rs.15,000/-. All the categories have been quantified as Rs.15,000/-, later, reduced to Rs.13,000/-. Since the quantum is not disputed by the respondents herein by way of filing steps, sufficient to order that the order that was passed by the enquiry Court at the rate of Rs.15,000/- must be equally shared by the petitioner and the mother namely the second respondent herein. Equal of this amount will come around Rs.7,500/-, that amount must be paid by the petitioner, from the date of the filing of the maintenance petition. The entire arrears must be paid immediately. The balance amount of Rs.7,500/- must be born by the second respondent. Of course, liberty is available to the minor to file enhancement petition, since he is going to pursue the higher education.



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12. With the above, this original petition is **allowed** to the extent stated above, by modifying the order of the trial court. Consequently, connected Miscellaneous Petition is closed.

06/06/2023

Index: Yes/No
Internet: Yes/No

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To,

The Principal District Judge,
Trichy.



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G.ILANGOVAN, J

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