



Crl.RC.No.36 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.04.2024

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

Crl.RC.No.36 of 2022
and
CRL.MP.No.294 of 2022

S.Suresh Kumar

...Petitioner

Vs.

1. Akilandaeswari

2. Minor Tharani

Rep. by her guardian mother/1st respondent

...Respondents

Petition filed under Section 397 r/w 401 of Code of Criminal Procedure to set aside the order dated 25.02.2021 passed in M.C.No.6 of 2020 on the file of the Family Court at Perambalur.

For Petitioner : Mr.M.Velan
for Mr.T.Saikrishnan

For Respondents : Mr.D.Ashok Kumar



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ORDER

WEB COPY This Criminal Revision case has been filed seeking quashment of the order dated 25.02.2021 passed in M.C.No.6 of 2020 on the file of the Family Court at Perambalur.

2. It is the case of the petitioner that the marriage between him and the 1st respondent was solemnised on 14.09.2008 as per Hindu Rites and Customs and out of the wedlock, the 2nd respondent was born. While so, due to some matrimonial dispute, they got separated. In such circumstances, the respondents filed a maintenance case in MC.No.6 of 2020, seeking maintenance of Rs.15,000/- each at the hands of the petitioner. Before the court below, the petitioner examined himself as RW1 and examined two other witnesses RW2 and RW3 and marked Exs.R1 to R12. The 1st respondent examined herself as PW1 and examined another witness PW2 and marked Exs.P1 to P16. The court below, based on the oral and documentary evidence, vide impugned order, awarded a monthly maintenance of Rs.6,000/- to the 1st respondent and Rs.4,000/- to the 2nd respondent. Aggrieved by the same, the present revision has been filed.



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3. Learned counsel appearing for the revision petitioner submitted that the monthly maintenance awarded by the trial court in favour of the respondents is highly excessive and the same was ordered by the trial court without taking into consideration the financial capacity of the petitioner. Further, the 1st respondent is working as an Assistant Supervisor and earning more than Rs.48,000/- per month and the same is sufficient to maintain herself and the 2nd respondent. While so, without considering the said facts, the trial court had mechanically awarded maintenance in favour of the respondents payable by the petitioner, which requires to be modified. Accordingly, he prayed for appropriate orders.

4. Per contra, learned counsel appearing for the respondents submitted that it is the petitioner who failed to maintain the respondents and the court below, on proper appreciation of the oral and documentary materials and taking note of the fact that, the 2nd respondent is under the care and custody of the 1st respondent has fixed the maintenance, which does not warrant any interference.



5. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

6. There is no dispute about the marriage between the petitioner and the 1st respondent. The 1st respondent is the wife and out of their wedlock, the 2nd respondent was born. It is to be pointed out that it is the duty of the husband to maintain his wife and child and the comforts, which were available to the spouse and child should not be lost due to the friction between the warring parties. Only to that end, Section 125 Cr.P.C. was brought into the statute. In such a backdrop, it becomes the duty of the husband to maintain his wife and child.

7. A careful perusal of the order passed by the court below reveals that the court below has taken into consideration the documentary evidence as also the deposition of the witnesses examined by the respondents and had come to the conclusion that only to deny the benefit of maintenance to the respondents, certain acts have been perpetrated by the revision petitioner.



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When the basis of such a finding is the deposition of the respondents, which has been rightly appreciated by the court below while awarding maintenance, the same does not warrant any interference.

8. Further, it has to be pointed out that it is the duty of the husband to maintain his wife and the revision petitioner herein is duty bound to maintain his wife and child and rightly appreciating the above, maintenance has been awarded by considering the means of the revision petitioner. The maintenance awarded is just and reasonable and the same does not require any interference.

9. For the reasons aforesaid, this Criminal Revision stands dismissed. Consequently, the connected Miscellaneous petition is closed.

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rap
Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To
The Family Court, Perambalur.



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