



Crl.R.C.No.876 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.No.876 of 2024
and Crl.M.P.No.7582 of 2024**

Abdul Hakeem

... Petitioner

Vs.

1.Benasir Taj

2.Minor.Rafiya Maryam

represented by her mother/first respondent

... Respondents

PRAYER : Criminal Revision filed under Sections 397 and 401 of the code of Criminal Procedure, 1973, read with Section 19(4) of the Family Courts Act, 1984, to set aside the order dated 17.08.2023 passed in M.C.No.27 of 2021 on the file of the Family Court, Krishnagiri, by allowing the present Criminal Revision Petition.

For Petitioner : Mr.M.Mohamed Afridi

For Respondents : Dispensed with



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ORDER

The Criminal Revision Case is filed against the order dated 17.08.2023 passed in M.C.No.27 of 2021 by the Family Court, Krishnagiri.

2. The learned counsel appearing for the petitioner submits that the marriage between the petitioner and the first respondent was solemnized on 27.01.2019 and they were blessed with a female child/second respondent. After marriage, the first respondent lived with the petitioner only for six months and thereafter, she left the matrimonial home and filed a petition seeking monthly maintenance of Rs.10,000/- to each of the respondents and the trial Court, without considering the factual aspects, has ordered monthly maintenance of Rs.4,000/- to the first respondent and Rs.4,500/- to the second respondent. Challenging the same, the present petition has been filed.



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3. The learned counsel appearing for the petitioner would submit that the petitioner is working as Taxi Driver and he did not have much income as alleged by the respondents in the maintenance petition and in order to prove his case, the petitioner examined himself as R.W.1 and marked Ex.R1 to Ex.R8. Moreover, the first respondent is working as Teacher in the private school, however, the trial Court, without verifying the said fact, has ordered monthly maintenance of Rs.4,000/- to the first respondent and Rs.4,500/- to the second respondent.

4. Since no adverse order is going to be passed against the respondents, notice to the respondents is dispensed with.

5. It is seen from the records that due to matrimonial dispute, the petitioner and the first respondent are living separately and the respondents filed a maintenance case in M.C.No.27 of 2021 seeking monthly maintenance and the trial Court has ordered the monthly maintenance of



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Rs.4,000/- to the first respondent and Rs.4,500/- to the second respondent which is under challenge in this petition. Though the petitioner claims that he did not have money to pay the monthly maintenance to the respondents and the first respondent is working as Teacher in the private school, he has not produced any evidence to prove the said aspects.

6. The grounds on which maintenance can be rejected to the wife can be only on the ground that wife is able to maintain herself and she has the requisite means to maintain herself and that she is not living in adultery and where the person, who offers to maintain his wife on condition of her living with him and she refuses to live with him, only on such of those grounds, maintenance could be negatived against the wife.

7. In the case on hand, it is not the case of the petitioner/husband that his wife has sufficient means to maintain herself by her earnings or that she is living in adultery or that he is ready to maintain her if she comes and lives with him, but that his wife is refusing to unite with him. There is no



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specific plea on the aforesaid three fronts and, therefore, necessarily, the wife is entitled to maintenance under Section 125 Cr.P.C and appreciating the above in proper perspective, the Court below has granted maintenance. Hence, this Court is not inclined to interfere with the order dated 17.08.2023 passed in M.C.No.27 of 2021 by the Court below.

8. Accordingly, the Criminal Revision Case is dismissed.

Connected miscellaneous petition is closed.

07.06.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

ssb

To

The Family Court, Krishnagiri



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M.DHANDAPANI, J.

ssb

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