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Crl.R.C.Nos.171 and 1162 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.Nos.171 and 1162 of 2024

And

Crl.M.P.No.1424 of 2024

M.Karthikeyan ... Petitioner in Crl.R.C.171/2024
1.C.Revathi
2.Minor Gowtham
Minor is represented by his Guardian and Mother
C.Revathi ... Petitioner in Crl.R.C.1162/2024

Vs.

1.C.Revathi
2.Minor Gowtham
Minor is represented by his Guardian and Mother
C.Revathi ... Respondent in Crl.R.C.171/2024
M.Karthikeyan ... Respondent in Crl.R.C.1162/2024

Prayer in Crl.R.C.No.171 of 2024:

Criminal Revision Case filed under Section 397 of Criminal Procedure Code, seeking to set aside the order dated 16.10.2023 made in M.C.No.02 of 2021 on the file of the Family Court, Erode by allowing this criminal revision case.



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Prayer in Crl.R.C.No.1162 of 2024:

Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, seeking to set aside the order dated 16.10.2023 made in M.C.No.2 of 2021, on the file of the Family Court, Erode.

For Petitioners : Mr.Guruprasad
in Crl.R.C.No.171 of 2024
Mr.P.Muthukumarasamy
in Crl.R.C.No.1162 of 2024

For Respondents : Mr.P.Muthukumarasamy
in Crl.R.C.No.171 of 2024
Mr.M.Guruprasad
in Crl.R.C.No.1162 of 2024

COMMON ORDER

The criminal revision cases have been filed seeking to set aside the order dated 16.10.2023 passed by the Family Court, Erode in M.C.No.02 of 2021.

2.Since the issue involved in these revisions are one and the same, they are heard together and disposed of by way of a common order. For brevity, the petitioner in Crl.R.C.No.171 of 2024 would be hereinafter referred to as the 'husband' and the first petitioner in Crl.R.C.No.1162 of 2024 would be hereinafter referred to as 'wife'.



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3.The facts of the case is that the marriage between the husband and wife was solemnized on 02.02.2014 and out of the wedlock, they were blessed with a male child. Thereafter there was a matrimonial dispute between them and the wife filed maintenance case under Section 125 of Cr.P.C. in M.C.No.02 of 2021 before the Family Court at Erode seeking monthly maintenance of Rs.40,000/- and Rs.10,000/- for the child's future educational expenses. The Court below partly allowed the said case and directed the husband to pay a sum of Rs.6,000/- to the wife and Rs.6,000/- to their son towards monthly maintenance from the date of filing of the petition. Challenging the same, the present revisions have been filed.

4.The learned counsel for the petitioner in Crl.R.C.No.171 of 2024/ husband submitted that both the husband and wife are diabetic patients and they have to take care of themselves by spending huge amount. The wife was working in a College and she could maintain herself, however, in order to harass the husband she quit the job and she filed the maintenance case and without considering her bad intention, the Court below ordered for maintenance, which is not sustainable one. The learned counsel further submitted that the wife



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preferred petition seeking divorce in F.C.O.P.No.357 of 2017 before the Family Court at Erode and the said petition was allowed.

5.Per contra, the learned counsel appearing for the first petitioner in Crl.R.C.No.1162 of 2024/ wife submitted that due to the cruelty of the husband, the wife's diabetics got worsened and she was forced to quit the job and further submitted that the wife has to take care of their son who is also a diabetic patient. Hence, the maintenance amount awarded by the Court below is not sufficient and this Court may enhance the amount awarded by the Court below.

6.The facts of the case and the relationship between the parties is not disputed. Perusal of records disclose that the wife preferred petition seeking divorce in F.C.O.P.No.357 of 2017 before the Family Court at Erode and the said petition was allowed and divorce was granted on the ground of cruelty and desertion. Further, the wife is also not employed anywhere.

7.The grounds on which maintenance can be rejected to the wife can be on the ground that wife is able to maintain herself and she has the requisite means to maintain herself; that she is living in



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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.

8.In the case on hand, it is not the case of the petitioner 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 his wife is refusing to unite with him. There is no specific plea on the aforesaid three fronts and therefore, necessarily the wife is entitled to maintenance and appreciating the above in proper perspective, the Court below has granted maintenance.

9.Admittedly, both the wife and their son are diabetics. Hence, the impugned order directing the husband to pay a sum of Rs.12,000/- towards monthly maintenance is not sustainable. Hence, the wife is entitled for enhancement in the maintenance amount. Accordingly, this Court directs the petitioner in Crl.R.C.No.171 of 2024/ respondent in Crl.R.C.No.1162 of 2024 to pay a sum of Rs.15,000/- (Rs.7,500/- each) towards monthly maintenance to the respondents in Crl.R.C.No.171 of 2024 / petitioners in Crl.R.C.No.1162 of 2024 from the date of the petition in M.C.No.02 of



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2021 on the file of the Family Court at Erode.

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10.This Court directs the petitioner in Crl.R.C.No.171 of 2024 to deposit the entire arrears amount at the rate of Rs.15,000/- per month, to the credit of M.C.No.02 of 2021 on the file of the Family Court at Erode, less the amount if any, already deposited, within a period of six weeks from the date of receipt of a copy of this order. The petitioner in Crl.R.C.No.171 of 2024 shall continue to pay a sum of Rs.15,000/- per month to the respondents in Crl.R.C.No.171 of 2024 towards maintenance on or before 7th of every succeeding English Calender. Liberty is granted to the petitioner in Crl.R.C.No.171 of 2024 to file petition seeking modification in the maintenance amount if the first respondent in Crl.R.C.No.171 of 2024/ wife join any gainable job.

11.The criminal revision cases are disposed of on the above terms. Consequently, the connected miscellaneous petition is closed.

03.07.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

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To

1.The Family Court at Erode.

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M.DHANDAPANI,J.
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