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CrI.R.C.No.929 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 07.06.2024**

**CORAM**

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

**CrI.R.C.No.929 of 2024  
and CrI.M.P.No.7892 of 2024**

Yasar Arfath

... Petitioner

*Vs.*

Ayesha

... Respondent

**PRAYER :** Criminal Revision filed under Section 397 r/w. 401 of the code of Criminal Procedure, to set aside the order dated 07.08.2023 passed in C.A.No.248 of 2022 on the file of the learned III Additional District cum Sessions Judge, Gobichettipalayam, confirming the order dated 28.10.2022 passed in M.C.No.6 of 2015 on the file of the learned Judicial Magistrate No.1, Gobichettipalayam.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : Mr.R.Sivakumar

**O R D E R**

The Criminal Revision Case is filed against the order dated 07.08.2023 passed in C.A.No.248 of 2022 by the learned III Additional District cum Sessions Judge, Gobichettipalayam, confirming the order dated



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28.10.2022 passed in M.C.No.6 of 2015 by the learned Judicial Magistrate No.1, Gobichettipalayam.

2. The case of the petitioner is that the marriage between the petitioner and the respondent was solemnized in the year 2014 and due to matrimonial dispute, they are living separately. The respondent/wife filed a maintenance case in M.C.No.6 of 2015 seeking monthly maintenance and the trial Court has ordered a sum of Rs.7,000/- as monthly maintenance to be paid by the petitioner to the respondent and directed the petitioner to deposit the arrears amount (i.e.,) from the date of filing the petition till the date of the order passed in the maintenance case, within a period of three months, against which, the respondent preferred an appeal in C.A.No.248 of 2022 and the Appellate Court confirmed the maintenance amount awarded by the trial Court and directed the petitioner to return Sreedhana articles which were given during the time of marriage to the respondent within a period of one month. Challenging the same, the present petition has been filed.



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3. The learned counsel appearing for the petitioner submits that the wife is entitled for maintenance, only if she is unable to maintain herself. Here, the respondent is earning more than a sum of Rs.30,000/- per month and she voluntarily deserted the petitioner within 10 days from the marriage and all these aspects were agitated before the trial Court and the Appellate Court, however, the trial Court has ordered monthly maintenance of Rs.7,000/- to the respondent which was confirmed by the Appellate Court and the Appellate Court directed the petitioner to return sreedhana articles to the respondent, which is unjustifiable one. Hence, he prays for appropriate orders.

4. Per contra, the learned counsel appearing for the respondent submits that the petitioner and his family members have harassed the respondent seeking dowry, for which, the respondent's father brought her to his house and the respondent has no means and is unable to maintain herself. The trial Court has ordered only meager amount of Rs.7,000/- as monthly



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maintenance to the respondent, against which, appeal was filed by the respondent, however, the Appellate Court has confirmed the monthly maintenance awarded by the trial Court, but, directed the petitioner to return Sreedhana Articles to the respondent, which need not be interfered by this Court.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

6. Admittedly, the marriage between the petitioner and the first respondent was solemnized in the year 2014 and it is alleged by the respondent that due to unbearable torture made by the petitioner, she left the matrimonial home. Though the petitioner claims that the respondent is earning more than a sum of Rs.30,000/- per month, he has not produced any material to prove the same. After considering the financial position of the respondent, the trial Court has ordered the monthly maintenance of Rs.7,000/-, against which, appeal was preferred by the respondent and the Appellate Court, while confirming the monthly maintenance awarded by the



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trial Court, directed the petitioner to return Sreedhana articles which were given during the time of marriage, to the respondent.

7. 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.

8. 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 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.



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Hence, this Court is not inclined to interfere with the order dated 07.08.2023 passed in C.A.No.248 of 2022 by the learned III Additional District cum Sessions Judge, Gobichettipalayam, confirming the order dated 28.10.2022 passed in M.C.No.6 of 2015 by the learned Judicial Magistrate No.1, Gobichettipalayam.

9. 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



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To

1. The learned III Additional District cum Sessions Judge,  
Gobichettipalayam.

2.The learned Judicial Magistrate No.1, Gobichettipalayam.



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**M.DHANDAPANI, J.**

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