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Crl.RC.No.414 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.RC.No.414 of 2024

and

Crl.MP.No.3960 of 2024

S.Senthilkumar

...Petitioner

Vs.

1. Varalakshmi

2. Minor Shamini

Minor represented by Mother/Next friend
namely 1st respondent

...Respondents

Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. to set aside the order passed by the learned Family Court Judge, Vellore in FCMC.No.32 of 2020 dated 06.09.2022.

For Petitioner : Mr.M.P.Yuvaraj

For Respondents : Mr.S.Ravi

ORDER

This Criminal Revision Case has been filed seeking quashment of the order passed in FCMC.No.32 of 2020 dated 06.09.2022 on the file of the Family Court Judge, Vellore.



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2. The case of the petitioner is that, the marriage between the petitioner/husband and the 1st respondent/wife was solemnised on 01.09.2011 and out of their wedlock, the 2nd respondent was born. While so, due to some matrimonial dispute, they got separated. In such circumstances, alleging that the petitioner refused to maintain the respondents, the respondents filed a maintenance case under Section 125 of Cr.P.C. in FCMC.No.32 of 2020 claiming a monthly maintenance of Rs.20,000/- each. The trial court, after adjudication, vide order dated 06.09.2022 allowed the said petition in part and directed the petitioner/husband to pay a monthly maintenance of Rs.7,000/- to the 1st respondent /wife and Rs.15,000/- to the 2nd respondent and also ordered for payment of Rs.5,000/- to the respondents by the petitioner. Aggrieved by the same, the petitioner has come up with this revision.

3. Learned counsel appearing for the revision petitioner submitted that, the maintenance has been fixed by the trial court without taking into consideration the financial capacity of the petitioner and the same is on the higher side and necessarily it requires to be modified.



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4. Per contra, learned counsel appearing for the respondents submitted that the court below, on proper appreciation of the oral and documentary materials 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, they were blessed with the 2nd respondent. 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.



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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 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 negated 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 u/s. 125 Cr.P.C. The court below, appreciating the above in proper perspective, has granted maintenance, in which, this Court does not find any fault with and thereby, this court is not inclined to interfere with the same.



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9. For the reasons aforesaid, this Criminal Revision Case stands **dismissed** and the petitioner/husband is directed to pay the entire arrears of maintenance as ordered by the trial court to the respondents within a period of four weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

24.06.2024

skt

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

To

The Family Court Judge,
Vellore.

M.DHANDAPANI, J.



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