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Crl.R.C.No.932 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.04.2024

CORAM:

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

Crl.R.C.No.932 of 2023
and
Crl.M.P.No.7575 of 2023

P.Manikandan

...Petitioner

Vs.

M.Lekha

...Respondent

Criminal Revision Case filed under Section 397 r/w 401 of Code of Criminal Procedure pleaded to call for the records in the order passed in M.C.No.2 of 2021 on the file of the learned Family Judge, Dharmapuri dated 28.12.2022 and to set aside the same.

For Petitioner : M/s.J.Prithivi

For Respondent : Mr.J.Pradeep

ORDER

This Criminal Revision case has been filed by the petitioner to set aside the order passed by the learned Family Judge, Dharmapuri in M.C.No.2 of 2021 dated 28.12.2022. The learned Judge has ordered maintenance of Rs.20,000/- per month to the wife, the respondent herein.



2. The case of the petitioner is that, the marriage between the petitioner/husband and the respondent/wife was solemnized on 09.12.2013 as per the Hindu Rites and customs and out of their wedlock they were blessed with a male child namely Mahizhan on 04.03.2015. While so, due to some misunderstanding, they got separated and the male child is under the care and custody of the petitioner. While so, the respondent filed a maintenance case under Section 125 of Cr.P.C. in MC.No.2 of 2021 on the file of the Family Court, Dharmapuri, claiming a monthly maintenance amount of Rs.50,000/-. After adjudication, the trial Court, vide order dated 28.12.2022, awarded a monthly maintenance of Rs.20,000/- in favour of the respondent. Aggrieved with the same, the petitioner/husband has come up with the present revision.

3. Learned counsel for the petitioner submitted that, admittedly at the relevant point of time, the petitioner was working as a Senior Software Engineer, however, due to the harassment made by the respondent by filing various criminal cases against the petitioner, the petitioner subsequently quit his high paying job and currently he is unemployed. Further, it is the



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petitioner who is taking care of his aged old parents and minor child and his education and other expenditures. While so, directing the petitioner to pay a maintenance of Rs..20,000/- in favour of the respondent is not sustainable. Accordingly, prayed for appropriate orders.

4. Learned counsel for the respondent submitted that, it is the petitioner who deserted the respondent and forcibly took the male child and the trial court upon careful perusal of the above said fact and the documents placed before it and after taking into consideration the assets and liability and monthly income of the petitioner, had passed the present impugned order awarding a monthly maintenance of Rs.20,000/- and the same does not require any reduction. Accordingly, he prayed for dismissal of this petition.

5. Heard learned counsel on either side and perused the material documents placed on record.

6. There is no dispute about the marriage between the petitioner and the respondent. The respondent is the wife and out of their wedlock, they



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were blessed with one male child. 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 perusal of the materials available on record reveal that, the respondent filed a maintenance case in MC.No.2 of 2021, claiming a monthly maintenance amount of Rs.50,000/- and the trial Court, vide order dated 28.12.2022, awarded a monthly maintenance of Rs.20,000/- to the respondent.

8. Further, it is to be noted that no reason has been recorded on the basis of which a sum of Rs.20,000/- has been awarded as maintenance to the respondent. There is no material to show the earnings of the petitioner. Further, it is the specific case of the husband that he has to take care of his parents as well as his minor child and, therefore, paying the maintenance of Rs.20,000/- to the respondent is highly excessive. In such circumstances, in



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the interest of either parties, this Court is inclined to modify the monthly maintenance awarded by the trial court in favour of the respondent in the following terms :-

(i) The petitioner is directed to pay the arrears of maintenance at the rate of Rs.18,000/- per month, less than the amount if any already paid, to the respondent within a period of six weeks from the date of receipt of a copy of this order;

(ii) Thereafter, the petitioner shall continue to pay a monthly maintenance of Rs.18,000/- to the respondent on or before the 5th day of every English Calendar month.

9. With the above direction and modification, this Criminal Revision Case stands disposed of. Consequently, the connected miscellaneous petition is closed.

04.04.2024

skt

Index : Yes/No

Speaking order : Yes/No

NCC : Yes/No

To

The Family Judge, Dharmapuri.

M.DHANDAPANI, J.

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