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C.R.P.Nos.1741 & 1746 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.Nos.1741 & 1746 of 2024 and
C.M.P.Nos.8172 & 8178 of 2024

P.Senthil Kumar

... Petitioner in both revisions

Vs.

R.Vidhya

... Respondent in both revisions

PRAYER in C.R.P.No.1741 of 2024: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair Order and Decretal Order, dated 04.01.2024 made in I.A.No.3 of 2023 in HMOP.No.129 of 2021 on the file of the Principal Subordinate Judge, Chengalpet and thereby allow the civil revision petition.

PRAYER in C.R.P.No.1746 of 2024: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair Order and Decretal Order, dated 04.01.2024 made in I.A.No.1 of 2022 in HMOP.No.129 of 2021 on the file of the Principal Subordinate Judge, Chengalpet and thereby allow the civil revision petition.



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For Petitioner in both revisions : Mr.Bijai Sundar for
Mr.D.T.Janarthanon

For Respondent in both revisions : Mr.B.Viveka Vanan

ORDER

The petitioner/estranged wife of the respondent filed H.M.O.P.No.129 of 2021 seeking divorce on the ground of cruelty before the learned Principal Subordinate Judge, Chengalpet. In H.M.O.P.No.129 of 2021, the petitioner filed interim application in I.A.No.3 of 2023 seeking interim maintenance of Rs.40,000/- per month to her and to her minor son for their livelihood and also to pay Rs.1,00,000/- as litigation expenses. The learned Principal Subordinate Judge *vide* impugned order, dated 04.01.2024 allowed the petition directing the respondent herein to pay Rs.10,000/- per month towards interim maintenance to the petitioner from the date of the petition till the disposal of main petition and Rs.20,000/- towards litigation expenses. Challenging the same, C.R.P.No.1741 of 2024 is filed. Similarly, the petitioner filed I.A.No.1 of 2022 in H.M.O.P.No.129 of 2021 seeking direction to the respondent to return the articles of the petitioner mentioned in the petition and the same was allowed *vide* order, dated 14.01.2024



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directing the respondent to return the articles of list of gold ornaments mentioned in the petition to the petitioner. Challenging the same, C.R.P.No.1746 of 2024 is filed.

2.The learned counsel for the petitioner submitted that the marriage between the petitioner and respondent took place on 16.06.2016, during the marriage, customary gold jewels and household articles presented. The petitioner is a M.B.A graduate employed in Software Industry. The respondent is a qualified person. Out of their marriage, they blessed with a male child S.V.Devesh born on 01.08.2017. The respondent left the matrimonial home on 26.10.2018, thereafter she never returned back and filed petition for divorce. He further submitted that the petitioner was taking care of his wife/respondent and child properly and it was the respondent who wanted to have own way of life, left the matrimonial home for the reasons best known. The petitioner is always willing to take back the respondent and his son, but the respondent wants to have own way of life. To cause harassment and torture, the divorce petition filed by the respondent in which, she also filed interim applications for interim



maintenance as well as return of articles. The respondent employed in a software industry and she is having sufficient income. The respondent is denied the petitioner for having love and affection on his son. Hence, the petitioner already filed a petition for visitation in which the respondent is yet to file counter and the same is kept pending. On the other hand, the respondent filed maintenance case in M.C.No.7 of 2021 before the learned Chief Judicial Magistrate, Chengalpet in which order is yet to be passed. Hence, he prays for setting aside the impugned orders, dated 04.01.2024.

3.The learned counsel for the respondent submitted that the marriage between the petitioner and respondent is an arranged marriage which took place on 16.06.2016. Out of their marriage, they blessed with a male child named S.V.Devesh on 01.08.2017. Right from the date of marriage, the petitioner not shown much love and affection to take care of the respondent/wife and he was constantly harassing her and also taken away her jewels. He further submitted that the respondent lost her mother at her early age and she had none to support her. Her father was also sick and passed away on 17.04.2018. Earlier, the respondent physically assaulted by



the petitioner and chased away from the matrimonial home on 26.10.2018 and she takes asylum in her sister's place. Added to it, jewels of the respondent retained by the petitioner. Though the respondent is educated, she is unable to get regular employment and income. For that reason alone, she filed interim maintenance application in H.M.O.P.No.129 of 2021 and also the maintenance case in M.C.No.7 of 2021 before the learned Chief Judicial Magistrate, Chengalpet.

4.The learned counsel further submitted that in the maintenance case, the respondent called on several occasions, made to wait her for whole day and finally she would be harassed in the name of cross examination and allegations made on her personal character. The petitioner is well placed and presently employed in M/s.Omega Health Care Management Services Private Limited as Software Executive and he has got present P.F.Account No.PYKRP00355530000125343. With great difficulty, the said number could be obtained since the petitioner not given his place of employment. The amount of Rs.10,000/- for maintenance is only reasonable which the petitioner has to pay and return back jewels of the respondent. Previously,



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the petitioner employed in the following companies:

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S.No.	Name of the Companies	Date of Joining	Date of Relieving
1	M/s.Chola Investment	16.06.2011	31.08.2016
2	M/s.Chola People & Marketing	01.09.2016	09.06.2022
3	M/s.Integra Software Services (P) Ltd	10.06.2022	06.10.2023
4	M/s.Omega Healthcare Management Services (P) Ltd., Bangalore	06.02.2024	Working at present

5.The learned counsel for the petitioner referring to the evidence of the petitioner in the maintenance case submitted that some of jewels pledged or sold by the respondent and she has taken away. The learned counsel for the respondent rebutted the same stating that pledging of jewels is only for the purpose of welfare of the son not for any other reason. He further submitted that now in the Family Court, Chengalpet, Presiding Officer appointed. If the maintenance case in M.C.No.7 of 2021 and divorce petition in H.M.O.P.No.129 of 2021 are transferred to the Family Court at Chengalpet, it would be better to have a holistic view.



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6.Considering the submissions and on perusal of the materials, it is seen that right from the date of the impugned order directing the petitioner to pay the interim maintenance of Rs.10,000/- per month to the respondent, the petitioner so far not even paid a single pie. Now the petitioner has to pay Rs.1,88,000/- arrears as on date. In view of the same, this Court is not inclined to interfere with the impugned order, dated 04.01.2024 in I.A.No.3 of 2023 in H.M.O.P.No.129 of 2021 passed by the learned Principal Subordinate Judge, Chengalpet and the same is hereby confirmed. Accordingly, C.R.P.No.1741 of 2024 stands dismissed.

7.As regards the impugned order, dated 04.01.2024 in I.A.No.1 of 2022 in H.M.O.P.No.129 of 2021 is concerned, the issue of return of articles can be decided at the time of deciding the main case. Accordingly, C.R.P.No.1746 of 2024 stands dismissed confirming the impugned order, dated 04.01.2024 in I.A.No.1 of 2022 in H.M.O.P.No.129 of 2021 passed by the learned Principal Subordinate Judge, Chengalpet.



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8. In the case of “***Maria Antony Chandra Prakash v. Sheela Regina*** in ***Crl.R.C.No.1094 of 2021, dated 11.04.2023***” wherein it had held that *'though the learned Single Judge has come to the conclusion that criminal jurisdiction cannot be invoked under Section 397 of the Code of Criminal Procedure against any order relating to the right of maintenance, as referred to by us already, a careful reading of Section 7(2)(a) and Section 10(2) of the Family Courts Act vividly makes the position clear that the Family Court is also considered as a Criminal Court and therefore, the provisions of the Code of Criminal Procedure or the Rules made thereunder shall apply to the proceedings under Chapter IX before a Family Court.'* In view of the same, the Family Court at Chengalpet can conduct the trial in maintenance case.

9. It would be better to have a holistic view in the issues between the petitioner and the respondent, this Court withdraws the maintenance case in M.C.No.7 of 2021 from the file of the Chief Judicial Magistrate, Chengalpet and transfers the same to the file of the Family Court at Chengalpet.



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Similarly, this Court withdraws the divorce proceedings in H.M.O.P.No.129 of 2021 from the file of the Principal Subordinate Court, Chengalpet and transfers the same to the file of the Family Court at Chengalpet.

10.The Family Court at Chengalpet is directed to complete both proceedings in M.C.No.7 of 2021 and H.M.O.P.No.129 of 2021 within a period of six months from the date of receipt of both case bundles. In the event of the petitioner fails to make payment of interim maintenance, the Family Court at Chengalpet is at liberty to take coercive action against the petitioner. Connected Civil Miscellaneous Petitions are closed. No costs.

02.07.2024

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Index : Yes/No

Internet : Yes

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Note: Issue Order Copy on 15.07.2024.



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M.NIRMAL KUMAR, J.

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To

- 1.The Family Court at Chengalpet.
- 2.The Principal Subordinate Judge,
Chengalpet.
- 3.The Chief Judicial Magistrate,
Chengalpet.

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