



WEB COPY



CrI.RC.No.1068 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM:

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

CrI.RC.No.1068 of 2024

and

CrI.MP.No.9063 of 2024

V.Arshith

...Petitioner

Vs.

P.Muthusaranya

...Respondent

Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. to set aside the order granting maintenance of Rs.20,000/- per month as maintenance made by the Hon'ble Judicial Magistrate-I, Tambaram in MC.No.56 of 2021 dated 01.11.2023.

For Petitioner : Mrs.R.Kamalarani

For Respondent : Mr.R.Aranganathan

ORDER

This Criminal Revision Case has been filed seeking quashment of the order passed in MC.No.56 of 2021 dated 01.11.2023 on the file of the Judicial Magistrate-I, Tambaram.



Crl.RC.No.1068 of 2024

WEB COPY

2. The case of the petitioner is that, the marriage between the petitioner/husband and the respondent/wife was solemnised on 24.08.2018 as per Hindi Rites and Customs. However, due to some matrimonial dispute, they got separated within a period of two months. In such circumstances, alleging that the petitioner refused to maintain the respondent, the respondent filed a maintenance case under Section 125 of Cr.P.C. in MC.No.56 of 2021 claiming a monthly maintenance of Rs.1,00,000/-. The trial court, after adjudication, vide order dated 01.11.2023 allowed the said petition in part and directed the petitioner/husband to pay a monthly maintenance of Rs.20,000/- to the respondent /wife. 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, as the petitioner being a Marine Engineer, he works off-shore only for six months a year and receives salary for only 6 months in



Crl.RC.No.1068 of 2024

WEB COPY

a year and not for every month. While so, ordering for payment of maintenance of Rs.20,000/- per month to the respondent by the petitioner is wholly unsustainable. She further submitted that, the trial court failed to take note of the fact that, the respondent is also working as a Software Engineer and earning more than Rs.1 lakh per month and she is capable of maintaining herself. Accordingly, she prayed for appropriate orders.

4. Per contra, learned counsel appearing for the respondent 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/ husband and the respondent/wife. 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



Crl.RC.No.1068 of 2024

WEB COPY

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. 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 that, the respondent/wife 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. Though it is the case of the petitioner that his wife/respondent has sufficient means to maintain herself by her earnings, however, no oral or documentary evidence has been produced by the petitioner/husband to establish the same either before the trial court or before this court. When



Crl.RC.No.1068 of 2024

there is no specific plea on the aforesaid three fronts or no proof to prove the said plea, 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.

9. For the reasons aforesated, this Criminal Revision Case stands **dismissed** and the petitioner is directed to pay the 50% of arrears of maintenance as ordered by the trial court to the respondent within a period of three months from the date of receipt of a copy of this order and the remaining 50% of the arrears amount within a period of three months thereafter. Consequently, the connected miscellaneous petition is closed.

25.06.2024

skt

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

M.DHANDAPANI, J.



WEB COPY



Crl.RC.No.1068 of 2024

skt

To

The Judicial Magistrate-I,
Tambaram.

Crl.RC.No.1068 of 2024
and
Crl.MP.No.9063 of 2024

25.06.2024