



Crl.R.C.No.976 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11.06.2024

CORAM:

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

Crl.R.C.No.976 of 2024
and Crl.M.P.No.8211 of 2024

J.DhanasekarPetitioner

Vs.

1.D.Babykala

2.Minor Jevin Samuel
(Minor Jevin Samuel is rep
by his mother 1st respondent)

...Respondents

Prayer : Criminal Revision Case has been filed under Section 397 and 401 of Cr.P.C., to set aside the judgment and decree of the learned Additional Principal Family Judge, Coimbatore in M.C.No.52 of 2022 dated 17.07.2023.

For Petitioner	: Mr.J.Franklin
For Respondents	: Notice dispensed with

ORDER

These Criminal Revision Case has been filed to set aside the judgment and decree of the learned Additional Principal Family Judge, Coimbatore in M.C.No.52 of 2022 dated 17.07.2023.

2. The case of the petitioner is that the petitioner is the husband



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and the 1st respondent is wife and 2nd respondent is the son of the 1st respondent and petitioner. The marriage between the petitioner and 1st respondent was solemnized on 21.01.2010 at the C.S.I. Immanuel Church, Uppilipalayam, Coimbatore as per the Christian Customary rites and rituals. The first respondent is a lawyer practicing at Coimbatore and the petitioner was working in Sakthi Finance, Coimbatore. There was a matrimonial dispute between them and thereby, the petitioner/husband filed a petition in I.D.O.P.No.428 of 2021 to dissolve the marriage between them; I.D.O.P.No. 2030 of 2021 was filed by the first respondent/wife for restitution of conjugal rights and M.C.No. 52 of 2022 was filed by the 1st respondent/wife and the 2nd respondent/son to pay monthly maintenance of Rs.25,000/- each to them.

(ii) Before the court below, the first respondent/wife examined herself as R.W.1 and marked 11 documents as Ex R1 to R11 and the petitioner/husband was examined as P.W.1 and marked 15 documents as Ex.P1 to P15. The learned Additional Principal Family Judge, Coimbatore had clubbed all the petitions together and based on the oral and documentary evidence, passed judgment vide order dated 17.07.2023



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by dismissing the petition filed by the petitioner/husband for divorce and allowed the petition for restitution of conjugal rights and in respect of M.C.No.52 of 2022, the learned Judge had directed the petitioner/husband to pay a sum of Rs.10,000/- per month to the 1st respondent/wife and a sum of Rs.5,000/- per month/- to the 2nd respondent/son, in total Rs.15,000/- per month to the respondents herein as maintenance. Aggrieved by the said order, the petitioner/husband has filed the present Criminal Revision Case to set aside the order dated 17.07.2023 in the maintenance petition in M.C.No.52 of 2022.

3. Learned counsel for the revision petitioner/husband would submit that admittedly, the first respondent/wife is a lawyer and a earning member. Initially, she was working as a Legal Advisor at Cholaamndalam investment financial company, Coimbatore and now she started her individual practice as an Advocate at Coimbatore District. After the order passed by the Trial Court by allowing the petition filed for restitution of conjugal rights, the petitioner/husband insisted on living together multiple times, but the 1st respondent/wife refused to accept it



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and left from the matrimonial house. He further submitted that the petitioner/husband had obtained housing loan and constructed one house and shop which is in the 1st respondent/wife's possession and she is collecting rent from the shop. The petitioner/husband is also paying the education expenses to his son without any default. Therefore, he prays to set aside the maintenance amount awarded by the Trial Court.

4. This Court gave its anxious consideration to the submission advanced by the learned counsel for the petitioner and perused the materials available on record.

5. Since no adverse order is being passed as against the respondents, notice to the respondents is dispensed with.

6. A careful perusal of the order passed by the court below reveals that the court below has taken into consideration the documentary evidence as also the deposition of the witnesses examined by the respondents and had come to the conclusion that only to deny the benefit



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of maintenance to the respondents, certain acts have been perpetrated by the revision petitioner. When the basis of such a finding is the deposition of the respondents, which has been rightly appreciated by the court below while awarding maintenance, the same does not warrant any interference.

7. Further, it has to be pointed out that though the 1st respondent/wife is able to manage herself, it is the duty of the husband to maintain his wife and son and rightly appreciating the above, maintenance has been awarded by considering the means of the revision petitioner. The maintenance awarded is just and reasonable and the same does not require any interference.

8. In view of the above discussion, this Court directs the revision petitioner to pay the maintenance to the respondents as ordered by the Family Court, regularly on or before 7th of every English calendar month and in addition to that, this Court directs the revision petitioner to pay a sum of Rs.35,000/- per annum as educational expenses to the 2nd respondent/son. The revision petitioner is also directed to pay the entire arrears of maintenance to the respondents within a period of four weeks



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from the date of receipt of a copy of this order.

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9. With the above directions, the Criminal Revision case is dismissed. Consequently connected miscellaneous petition is closed.

11.06.2024

msv

Index : Yes/No
Speaking Order : Yes/No
NCC : Yes/No

To
The Additional Principal Family Judge,
Coimbatore

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