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Crl.R.C.No.1078 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1078 of 2024

Prabakaran

... Petitioner

Vs.

1.Prema

2.Minor Nishanth

represented by guardian mother/first respondent

... Respondents

PRAYER : Criminal Revision Petition filed under Sections 397 and 401 of the code of Criminal Procedure, to set aside the order dated 30.06.2023 passed in M.C.No.20 of 2022 on the file of the learned Family Judge, Dharmapuri.

For Petitioner

:

Mr.S.Chinnasamy



Crl.R.C.No.1078 of 2024

WEB COPY

ORDER

The Criminal Revision Case is filed against the impugned order dated 30.06.2023 passed in M.C.No.20 of 2022 by the learned Family Judge, Dharmapuri.

2. The case of the petitioner is that the petitioner is the husband of the first respondent and the marriage between the petitioner and the first respondent was solemnized in the year 2015 and they were blessed with a child, namely, Nishanth, who is the second respondent herein. After the marriage, there was a dispute between them and the first respondent has gone to her maternal home along with the son/second respondent and the respondents filed a maintenance case in M.C.No.20 of 2022 before the Family Court, Dharmapuri, claiming Rs.50,000/- as monthly maintenance and Rs.2,00,000/- per annum for house rent, clothing, medical and educational expenses, however, the trial Court, without considering the aspect that the first respondent was not ready to reunion with the petitioner, has ordered monthly maintenance of Rs.3,000/- to the first respondent and



Crl.R.C.No.1078 of 2024

Rs.7,000/- to the second respondent from the date of filing the petition and Rs.25,000/- each per annum for medical and other expenses of the first respondent and educational and other expenses of the second respondent. Challenging the same, the present petition has been filed.

3. The learned counsel appearing for the petitioner submits that the petitioner is a call taxi Driver and he has not much amount as claimed by the first respondent and the first respondent is working as Teacher and she is not ready to reunion with the petitioner. However, the trial Court has ordered monthly maintenance and medical and other expenses for the first respondent, and educational and other expenses for the second respondent, which is not justifiable one.

4. Heard the learned counsel appearing for the petitioner.

5. It appears that the respondents, who are the wife and child of the petitioner, have filed a maintenance case in M.C.No.20 of 2022, seeking



CrI.R.C.No.1078 of 2024

monthly maintenance of Rs.50,000/- per month to the respondents and Rs.2,00,000/- per annum for house rent, clothing, medical and educational expenses, since the petitioner is not taking care of his wife and child. After considering the financial position of the petitioner, the trial Court has ordered monthly maintenance of Rs.3,000/- to the first petitioner and Rs.7,000/- to the second petitioner from the date of filing the petition and Rs.25,000/- each per annum for medical and other expenses of the first respondent and educational and other expenses of the second respondent.

6. 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 not 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 negatived against the wife.



Crl.R.C.No.1078 of 2024

WEB COPY

7. 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 under Section 125 Cr.P.C and appreciating the above in proper perspective, the Court below has granted maintenance. Hence, this Court is not inclined to interfere with the order dated 30.06.2023 passed in M.C.No.20 of 2022 by the learned Family Judge, Dharmapuri.

8. Accordingly, the Criminal Revision Case is dismissed.
Connected miscellaneous petition is closed.

26.06.2024

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

Page 5 of 7



CrI.R.C.No.1078 of 2024

The Family Court, Dharmapuri.

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Crl.R.C.No.1078 of 2024

M.DHANDAPANI, J.

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Crl.R.C.No.1078 of 2024

26.06.2024