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Crl.R.C.No.1112 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1112 of 2024

And

Crl.M.P.No.9410 of 2024

B.Bharathi

... Petitioner

Vs.

1.Usharani

2.B.Bharath (Minor)

3.B.Anusha (Minor)

... Respondents

Prayer:

Criminal Revision Case filed under Section 397 of Criminal Procedure Code, seeking to set aside the order dated 18.02.2023 made in M.C.No.04 of 2017 on the file of Court of the Judicial Magistrate Court, Arakkonam, Vellore District.

For Petitioner : Mr.T.P.Prabakaran

For Respondents : Mr.S.Sasikumar

ORDER

The criminal revision case has been filed seeking to set aside the order dated 18.02.2023 made in M.C.No.04 of 2017 by the Judicial Magistrate Court, Arakkonam, Vellore District.



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2.The case of the petitioner is that the petitioner is the husband and the first respondent is the wife. Their marriage was solemnized on 15.06.2007 at Arulmigu Subramaniya Swamy Thirukoil, Tiruttani, Thiruvallore District and out of the wedlock, they were blessed with the respondents 2 and 3. Thereafter there was a matrimonial dispute between them and the respondents filed maintenance case under Section 125 of Cr.P.C. in M.C.No.04 of 2017 before the Judicial Magistrate Court, Arakkonam, Vellore District seeking monthly maintenance of Rs.35,000/-. The Court below allowed the said case and directed the petitioner to pay a sum of Rs.22,500/- to the respondents (Rs.7,500/- each) towards monthly maintenance. Challenging the same, the present revision has been filed.

3.The learned counsel for the petitioner submitted that the petitioner filed petition seeking divorce in H.M.O.P.No.12 of 2016 before the Subordinate Court, Arakkonam and the first respondent filed petition seeking restitution of conjugal rights in H.M.O.P.No.22 of 2018 before the Subordinate Court, Arakkonam and the petition seeking divorce was allowed and the petition seeking restitution of conjugal rights was dismissed as against which appeals were



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preferred in H.M.C.M.A.Nos.2 and 3 of 2021 on the file of II Additional District Court, Vellore at Ranipet and the same were dismissed and challenging the same C.M.S.A.Nos.56 and 57 of 2023 were preferred before this Court and the same are pending.

4.The learned counsel for the petitioner further submitted that the petitioner is already paying a sum of Rs.6,000/- as per the order of this Court dated 08.12.2017 made in C.M.P.No.21179 of 2017 in C.R.P(PD).No.4486 of 2017 and further submitted the petitioner availed housing loan, for which, he is paying Rs.54,018/- per month and hence, he is receiving only Rs.25,241/- per month from his salary and further submitted that the respondents are staying in the house belonging to the petitioner for which he availed housing loan. Hence directing the petitioner to pay a sum of Rs.22,500/- to the respondents towards monthly maintenance is not sustainable one.

5.The learned counsel appearing for the respondents submitted that the petitioner is employed in Southern Railways and the Court below considering the factual aspects and the present cost of living, directed the petitioner to pay a sum of Rs.22,500/- towards monthly maintenance, which warrants no interference.



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6.The grounds on which maintenance can be rejected to the wife can be on the ground that wife is able to maintain herself and she has the requisite means to maintain herself; 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.

7.In the case on hand, it is not the case of the petitioner 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 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 and appreciating the above in proper perspective, the Court below has granted maintenance.

8.Admittedly, the petitioner is employed in Southern Railways, however, he claims that he availed housing loan, for which, he is paying Rs.54,018/- per month and hence, he is receiving only Rs.25,241/- per month from his salary and that the respondents are staying in the house belonging to the petitioner for which he availed housing loan. Hence, this Court is of the opinion that a sum of



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Rs.15,000/- per month (Rs.5,000/- each) may awarded to the respondents towards maintenance.

9.Accordingly, this Court directs the petitioner to deposit the entire arrears amount at the rate of Rs.15,000/- per month, to the credit of M.C.No.04 of 2017 on the file of the Judicial Magistrate Court, Arakkonam, Vellore District, less the amount if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. The petitioner shall continue to pay a sum of Rs.15,000/- per month to the respondents towards maintenance on or before 7th of every succeeding English Calender Month.

10.If the petitioner fails to pay a sum of Rs.15,000/- per month to the respondents towards maintenance on or before 7th of every succeeding English Calender Month, the respondents are at liberty to make representation to the General Manager, Southern Railways, Pay and Accounts Department, Chennai seeking to attach the maintenance amount with the salary of the petitioner along with Bank details. If any such representation is made by the respondents, the General Manager, Southern Railways, Pay and Accounts Department, Chennai, shall hear the petitioner and the respondents and attach the



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maintenance amount with the salary of the petitioner.

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M.DHANDAPANI,J.

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11.This criminal revision case is disposed of on the above terms. Consequently, the connected miscellaneous petition is closed.

27.06.2024

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Note: Registry is directed to mark a copy of this order to
'The General Manager, Southern Railways,
Pay and Accounts Department, Chennai.'

Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Judicial Magistrate Court,
Arakkonam, Vellore District.

2.The General Manager, Southern Railways,
Pay and Accounts Department,
Chennai.

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