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C.R.P.No.2397 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2397 of 2024
and C.M.P.No.12552 of 2024

R.Karthik

... Petitioner

Vs.

Srividhya Sivaramakrishnan

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed on 27.12.2019 by the VI Additional Family Court, Chennai in I.A.No.2 of 2019 in O.P.No.3926 of 2017.

For Petitioner : Ms.S.Sujatha

For Respondent : Ms.S.P.Arthi

ORDER

The petitioner, estranged husband of the respondent filed this civil revision petition seeking to set aside the order passed in I.A.No.2 of 2019 dated 27.12.2019 by the VI Additional Family Court, Chennai.



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2.The contention of the learned counsel for the petitioner is that the marriage between the petitioner and the respondent took place on 17.04.2006 and it was a love marriage. After marriage, the petitioner shifted his residence to Vyasarpadi since the respondent insisted that she should be near to her mother's house. At the time of marriage, the petitioner was employed in Accenture, a software Company and was drawing a decent salary. The respondent was not employed at that time and thereafter secured employment in HCL. Out of their wedlock, a boy baby was born to them on 27.06.2007. After getting employment, the attitude of the respondent changed, she became very dominant and started ill-treating the petitioner and for the sake of child, the petitioner was putting up with the respondent, but the respondent not allowed the petitioner to live with her and to have the child and he was kept away from the matrimonial home. Suppressing the true facts, the respondent filed a maintenance case in M.C.No.63 of 2010 before the VI Additional Family Court, Chennai seeking Rs.25,000/- per month towards maintenance. Since the petitioner was inclined to take the respondent back to the matrimonial home, he filed F.C.O.P.No.3534 of 2010 seeking restitution of conjugal rights. Later on the advise, both the petitioner and the respondent withdrew their respective petitions on



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16.09.2013. Thereafter, the respondent left to USA in pursuance to her employment on 15.11.2013. The petitioner also got placement in USA and he reached to USA at the same time. The petitioner was trying to meet his wife in USA but unable to trace her and later, it was informed that she left to India in the year 2014 and thereafter, she returned back to USA leaving the child under the care and custody of her mother. Since all his efforts to join his wife ended in futility, the petitioner filed a petition in H.M.O.P.No.3926 of 2017 seeking dissolution of marriage in which he filed I.A.Nos.3813 and 3814 of 2017 for visitation rights and custody of the child. The respondent appeared on 11.02.2019 only to claim hefty maintenance amount of Rs.75,000/- per month for the child and litigation expense of Rs.1,00,000/- in I.A.No.2 of 2019 despite the respondent receiving a handsome salary in USA. Further, in USA school education for children are free. The Family Court not considering these factors, by impugned order dated 27.12.2019 ordered granting maintenance of Rs.30,000/- per month from 13.07.2018 and litigation expenses of Rs.25,000/-. On the other hand, the VI Additional Family Court dismissed the petitioner's application for visitation rights and custody of the child.



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3.The learned counsel for the petitioner further submitted that the Family Court ordered payment of maintenance with effect from 13.07.2018 but the application is of the year 2019. Since the petitioner and the respondent were in USA, the case was prosecuted by the petitioner through his father. The petitioner's request to participate in the proceedings through video conference was also not considered. In the meanwhile, there was Covid-19 lockdown, Courts were not properly functioning, the petitioner also got infected with Urological problem since February 2020 and bladder stones were removed in September 2021 which lead to further complications and the petitioner was under medical treatment both in USA and Chennai. For no fault on the part of the petitioner, he was distanced from the respondent and the child for 12 years. In such circumstances, the petitioner opted for withdrawal of divorce petition in H.M.O.P.No.3926 of 2017 which was dismissed as withdrawn by order dated 27.12.2019. The impugned order is erroneous and not sustainable, hence he prayed for setting aside the order.

4.The learned counsel for the respondent submitted that maintenance petition was filed under Section 26 of the Hindu Marriage Act seeking



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maintenance for the child and not for the respondent. The petitioner filed a petition praying for divorce on the ground of cruelty and it is the petitioner who had repeatedly abandoned the respondent and her child and was living with his parents separately. Both the petitioner and the respondent decided to move to USA to set up their life, however the respondent being incorrigible deserted them again and it was the respondent who was taking care of her son ever since his birth and the petitioner had carefully avoided any financial or emotional contribution to the child. The petitioner's son was showing interest in his studies, growing well in the company of his mother and their son was engaged in variety of extra-curricular activities and other seasonal activities like attending summer camps, workshop, etc. The petitioner being a father he is duty bound to cater to the needs of his son, but the petitioner shirked his responsibility and had not contributed towards the needs of his child. The respondent is unable to spend for all the interests of the child and considering the spiraling cost of living coupled with growing needs of the child, a sum of Rs.75,000/- per month as maintenance was sought for along with litigation expenses. It is further submitted that the petitioner sensing that interim maintenance petition to be ordered, in a deceitful manner on the same day had withdrawn O.P.No.3926 of 2017



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which would not absolve him from paying interim maintenance which was ordered. The learned counsel further referring to typed set of papers wherein I.A.No.2 of 2019 has been annexed to confirm that the petitioner was filed on 13.06.2018 as could be seen from the Court seal. Thus the Family Court had rightly ordered maintenance from the date of petition and not as claimed by the petitioner. Further, the Family Court found the petitioner as dutiful father earning hand full salary is liable to share the expenses towards bringing up the child considering the standard of minor child born to the parents working in USA as IT Professionals and having education in USA and the present day hike in cost of commodities, the Family Court fixed the quantum of maintenance payable by the petitioner to the respondent for the maintenance of the minor child Sairam, a sum of Rs.30,000/- per month, but till date the petitioner failed to make any payment towards maintenance and on the other hand, filed the above petition making false and frivolous allegations.

5.Considering the submissions made and on perusal of the materials, this Court is of the view that the petitioner withdrawing the divorce petition would not absolve him from making payment towards payment already



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ordered. Accordingly, this Court is not inclined to set aside the order passed by the VI Additional Family Court, Chennai in I.A.No.2 of 2019 dated 27.12.2019.

6.In the result, the civil revision petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

09.07.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse

To

The VI Additional Family Court,
Chennai.



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M.NIRMAL KUMAR, J.

cse

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