



C.R.P.No.1935 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.1935 of 2024 &
CMP.No.10229 of 2024

B.Mahendran

... Petitioner

Vs

1.M.Ramalakshmi

2.M.Rahul

3.M.Rohit

... Respondents

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order passed in I.A.No.1 of 2023 in HMOP.No.2386 of 2021, on the file of V Additional Principal Family Court, Chennai.

For Petitioner : Mr.R.Murugappan

For Respondent : Mr.K.Balaji for Caveator

ORDER

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The petitioner/husband of the respondent filed divorce petition in H.M.O.P.No.2386 of 2021 against his wife on the ground of adultery, in which the respondent/wife filed Interlocutory Application in I.A.No.1 of 2023 seeking interim maintenance of Rs.10,000/-, for the first respondent and Rs.20,000/-, Rs.20,000/- per month two minor sons respectively. In total Rs.50,000/- per month along with Rs.25,000/- towards litigation expense.

2. The Trial Court by order dated 28.12.2023, partly allowed the above interim maintenance petition and directed the petitioner/husband to pay a sum of Rs.7,000/- per month each to the first respondent /wife and to the second and third respondents/sons as an interim maintenance from the date of petition i.e., 04.11.2022, along with Rs.25,000/- towards litigation expense, till the date of disposal of OP. Aggrieved over the same, the present Civil Revision Petition filed.

3. The contention of the petitioner/husband is that the

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petitioner/husband was working in Army during the marriage and the wedding ceremony was solemnized between the petitioner herein and the first respondent on 24.10.2007 at Arulmigu Siva Subbiramania Samy Koil. Out of the wedlock, they have two sons i.e., the second and third respondents. Further the petitioner submitted that due to his nature of work, he was compelled to stay away from his family. In the meanwhile, the first respondent developed an extra marital affair with one Mr.Kumar who is arrayed as second respondent in the main divorce petition and the said fact specifically averred in the divorce petition. The petitioner/husband filed divorce on the ground of adultery as a counter blast the first respondent filed interim petition for maintenance and the same was allowed.

4. The learned counsel for the petitioner further submitted that the Trial court failed to consider that the petitioner is drawing Rs.25,000/- only as pension and he has to pay a sum of Rs.21,000/- per month as interim maintenance as per the impugned order, the

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petitioner will be left with only Rs.4,000/- which is not sufficient for him in the present days to maintain himself, his widowed sister and her handicapped daughter. Without considering these aspects, the Trial Court partly allowed the interim maintenance. Further, the Trial court dismissed the divorce petition on 12.03.2024 for non payment of interim maintenance. Hence, the learned counsel for petitioner/husband prayed that the said interim maintenance order requires interference of this Court.

5. When the said matter came up for admission on 06.06.2024, the learned counsel for the petitioner/husband stated that the petitioner is ready to pay the accumulated interim maintenance in parts. Hence, on such undertaking, this Court directed to post the case on 19.06.2024. On 20.06.2024, the learned counsel for petitioner/husband handed over a Demand Draft, dated 11.06.2024 for a sum of Rs. 2,00,000/- in favour of the first respondent/wife and undertook to pay the remaining sum of Rs.2,03,000/- within a period of one month.

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6. The learned counsel for the respondents accepted the said payment and expressed, no objection for allowing the petition.

7. Considering the facts and circumstances of the case and also considering part payment of Rs.2,00,000/- towards interim maintenance due of Rs.4,03,000/- till May, 2024 which petitioner/husband paid today and undertakes to pay the balance amount within one month. The petitioner submitted that the first respondent is dragging the proceedings of the HMOP before the family court. The counsel for the respondent denied the same. Now both counsels for petitioner and respondent agree to proceed with the Trial and to ensure speedy disposal of the proceedings. Hence, this court is not inclined to interfere with the order of interim maintenance passed by the Trial Court.

8. Accordingly, the Civil revision petition stands disposed of with

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the following directions:-

- a) This Court direct the V Additional Principal Judge, Family Court, Chennai to restore the main divorce petition in H.M.O.P.No.2386 of 2021 on file, the family court to ensure the balance maintenance amount of Rs.2,03,000/- is paid by the petitioner within one month from the date of receipt of copy of the order;
- b) The petitioner to pay interim maintenance every month without default.
- c) The Trial Court is directed to complete proceedings in H.M.O.P.No.2386 of 2021, within a period of six months from the date of receipt of this order. However, there shall be no order as to costs. Connected miscellaneous petitions are closed.



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M.NIRMAL KUMAR,J.

Pbn

To

V Additional Principal Family Court, Chennai

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