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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

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

Crl.RC.No.1108 of 2024
and Crl.MP.No.9374 of 2024

A.Prabhakaran

... Petitioner

-Vs-

Srinandhini

... Respondent

Prayer: Criminal revision is filed under Sections 397 and 401 of the Criminal Procedure Code, to set aside the order passed in MC.No.137 of 2021 dated 11.01.2024 on the file of the VII Additional Principal Family Court, Chennai.

For petitioner : Mr.B.Sanjay Balachandar
For Respondents : Mr.B.Viveka vanan

ORDER

The Criminal Revision is filed to quash the order in MC.No.137 of 2021 dated 11.01.2024 on the file of the VII Additional Principal Family Court, Chennai.

2. The revision petitioner is the husband of the respondent. Their marriage was solemnised on 11.09.2019. They have no issues. Due to cruelty



made by the petitioner, the respondent left the matrimonial home and now she lived in her parental home and filed a petition for divorce on the ground of cruelty. The petitioner has also filed restitution of conjugal rights petition in HMOP No.12 of 2021 on the file of Sub Court, Arni and subsequently it was transferred to VII Additional Family Court and the same was dismissed for non prosecution. She lived in her parental home. In the meanwhile, the respondents have filed a maintenance case claiming a sum of Rs.50,000/- per month. The learned Judge, after hearing both sides, allowed the petition in part and directed to pay maintenance for Rs.45,000/- to the respondent. Challenging the said order passed by the learned Family Court, the petitioner/husband has filed the present Criminal Revision before this Court.

3. The learned counsel for the revision petitioner/husband would submit that the respondent/wife left the matrimonial home without any valid reason and filed a divorce petition. Hence, the respondent is not entitled to get maintenance from the petitioner. The said facts was not properly adjudicated by the trial Court and awarded the maintenance, which is very exorbitant. Further, the respondent is also earning a sum of Rs.25,000/- per month. Hence, she is not entitled to get any maintenance under Section 125 Cr.P.C. In order to



harass the petitioner, the respondent filed a maintenance petition. Therefore, the learned counsel prays this Court to set aside the order passed by the Family Court.

4. The learned counsel for the respondent would submit that the petitioner is now working in Canada and he is earning a sum of Rs.3,20,000/- per month (in Indian rupees). The petition filed by the petitioner for restitution of conjugal rights was dismissed for non prosecution. However, the divorce petition filed by the respondent is pending. The respondent refused to maintain his wife. Therefore, the respondent filed a maintenance case under Section 125 Cr.P.C. And she is entitled to claim maintenance. The petitioner is working in Canada and earning huge salary and also he is running a poultry form, in which, he is earning Rs.1,50,000/- per month. Despite having sufficient means, the petitioner has refused to maintain his wife and is duty bound to maintain her. Hence, the learned counsel for the respondent prays to dismiss the Revision case.

5. The learned counsel for the respondent further submitted that the petitioner is now working at Canada, however, without filing any embassy



endorsement, the petitioner filed the present revision, which itself shows that the petitioner has not approached this Court with clean hands.

6. Heard both sides and perused the materials available on record.

7. Admittedly the petitioner is the husband of the respondent and it is also admitted fact that they have no issues. The wife filed a divorce petition on the ground of cruelty and the same is pending and the husband has filed a petition for restitution of conjugal rights before the Family Court and the same was dismissed for non prosecution. In the meanwhile, the respondent/wife has filed a petition under Section 125 Cr.P.C., before the Family Court claiming maintenance. The learned Judge directed to pay maintenance for Rs.45,000/- per month to the respondent.

8. It is settled law that if the wife is unable to maintain herself, the husband despite having sufficient means neglects to maintain her, the wife is entitled to get a maintenance from her husband. In the present case, the petitioner has not proved the employment of the wife. Admittedly, as deposed by the respondent the petitioner is earning a sum of Rs.92,000/- per month from



his job in addition to Rs.1,50,000/- earning from Poultry farm and also as rental income from properties during the relevant period. The said deposition of the respondent are neither disputed nor disproved by the petitioner. Therefore, the petitioner is duty bound to meet her expenses to lead a decent life.

9. Under these circumstances, since the relationship is not in dispute and considering the present day inflation, the Family Court has rightly passed an order granting maintenance which does not warrant any interference. The petitioner is directed to continue to pay maintenance as awarded by the Family court to the respondent on or before 5th of every English calendar month without any default and the petitioner shall deposit the arrears of maintenance within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the respondent is at liberty to withdraw the same.

10. With the above directions, this Criminal Revision Case is dismissed. Consequently, the connected Criminal Miscellaneous Petition is also closed.

01.07.2024

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Note: Issue order copy on 24.07.2024

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M.DHANDAPANI,J.

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Index : Yes/No

Internet: Yes/No

Speaking Order : Yes/No

To

The VII Additional Principal Family Court, Chennai.

Crl.RC.No.1108 of 2024

01.07.2014