



CrI.R.C.No.908 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

CrI.R.C.No.908 of 2024
and
CrI.M.P.No.7761 of 2024

T.Shanmugavel

... Petitioner

Vs.

1.P.Nalini

2.S.Dhanjai

rep. by his mother 1st respondent
and natural guardian

... Respondents

Prayer : Criminal Revision Case filed under Section 397 and 401 Cr.P.C, praying to call for the records relating to the order of dismissal made in M.P.No.1593 of 2023 in M.C.No.76 of 2022 dated 13.3.2024 by the learned 5th Additional Principal Judge, 5th Additional Family Court, Chennai and setaside the same by allowing the above criminal revision petition.

For Petitioner : Mr.K.A.Mariappan

For Respondents : Mr.P.Rajkumar Pandian



Cr.L.R.C.No.908 of 2024

ORDER

WEB COPY

This Criminal Revision Case is filed against the order of the learned V Additional Principal Family Court at Chennai, dated 13.03.2024 in M.P.No.1593 of 2023 in M.C.No.7 of 2022.

2. The case of the petitioner is that, the marriage of the petitioner/husband and the 1st respondent/wife was solemnized on 07.06.2022 at ICF Kambar Arangam Marriage Hall, ICF, Chennai as per Hindu rites and customs and the 2nd respondent/son was born from and out of the wedlock between the petitioner and the 1st respondent on 27.09.2004. Due to misunderstanding, the petitioner and the 1st respondent are living separately. Since the petitioner refused to take care of the respondents, they have filed a maintenance case u/s 125 of Cr.P.C. in M.C.No.76 of 2022 on the file of V Additional Principal Family Court, Chennai, claiming total maintenance amount of Rs.25,000/- p.m. (i.e., Rs.15,000/- to the 1st respondent and Rs.10,000/- to the 2nd respondent), which is still pending. In the meanwhile, the petitioner filed a petition u/s 151 of C.P.C. in M.P.No.1593 of 2023 in M.C.No.76 of 2022 seeking to discharge the petitioner from paying maintenance to the 2nd respondent in



CrI.R.C.No.908 of 2024

the above M.C., who attained majority on 28.09.2022 and the same was dismissed vide impugned order dated 13.03.2024. Aggrieved by the same, the present revision is filed by the petitioner/husband.

3. The learned counsel appearing for the petitioner submitted that, unless the 1st respondent is declared as major, the petitioner will be put to irreparable loss and hardship. He further submitted that the petitioner has to necessarily pay the maintenance to the 2nd respondent till he attains majority, however, the petitioner is not liable to pay any maintenance after the 2nd respondent attains majority. However, without considering the same, the trial court dismissed the petition filed by the petitioner and directed the petitioner to pay maintenance to the 2nd respondent, which is wholly unsustainable. Accordingly, he prays for appropriate orders.

4. The learned counsel appearing for the respondents submitted that the 2nd respondent was born on 27.09.2004 whereas the M.C. was filed on 02.02.2022 when he was a minor and he attained majority only on 27.09.2022. He further submitted that, at present, the 2nd respondent is a college student and studying 3rd year Engineering at St.Peters College of



Cr.L.R.C.No.908 of 2024

WEB COPY

Engineering and Technology, Avadi. Since the 2nd respondent is pursuing his studies, both the respondents have no source of income and they are depending upon the petitioner's income for their livelihood and education, as a dutiful father, the petitioner has to pay maintenance to the 2nd respondent either completion of studies or till the 2nd respondent secures a job, even though the 2nd respondent attained majority. Therefore, he submitted that the order passed by the trial court does not require any interference. Accordingly, he prays for dismissal of the revision.

5. Heard the learned counsel appearing for the parties and perused the materials available on record.

6. There is no dispute about the marriage between the petitioner and the 1st respondent. The 1st respondent is the wife and the 2nd respondent is the son of the petitioner. It is to be pointed out that it is the duty of the husband to maintain his wife and child and the comforts, which were available to the spouse and child should not be lost due to the friction between the warring parties. Only to that end, Section 125 Cr.P.C. was brought into the statute. In such a backdrop, it becomes the duty of the



CrI.R.C.No.908 of 2024

husband to maintain his wife and child.

WEB COPY

7. A perusal of the entire records reveals that the petitioner has filed a divorce petition in O.P.No.4190 of 2012 before the learned V Additional Principal Family Court, Chennai, in which the respondents have filed an Interim maintenance application in I.A.No.2046 of 2013 u/s 224 of Hindu Marriage Act praying monthly maintenance. In the said application, the petitioner was directed to pay a sum of Rs.6,000/- p.m. to the respondents vide order dated 25.10.2017. After filing E.P.No.32 of 2018, the petitioner filed C.R.P.(NPD)No.2110 of 2018 before this court against the non-bailable warrant issued in E.P. Subsequently, the divorce O.P. was dismissed for default vide order dated 16.08.2018. Thereafter, the petitioner stopped paying the interim maintenance ordered in I.A., thereby the respondents filed M.C., in which the petitioner filed the M.P.No.1593 of 2023, which was dismissed vide impugned order.

8. It is seen that the 2nd respondent is under the care and custody of the 1st respondent and he is a college student and studying 3rd year Engineering at St.Peters College of Engineering and Technology, Avadi.



Crl.R.C.No.908 of 2024

WEB COPY

In such circumstances, it can be inferred that the respondents have no source of income and they are totally depending on the income of the petitioner only. Considering the fact that the 2nd respondent is pursuing his studies and he has no source of income, the trial court has dismissed the petition filed by the petitioner, which is wholly sustainable. Further, if the petitioner has any grievance, he has to canvass the same in the maintenance case in the manner known law instead of filing a petition in M.C. Hence, the impugned order passed by the trial court cannot be interfered with.

9. Accordingly, the Criminal Revision Case is dismissed. However, the trial court is directed to dispose of M.C.No.76 of 2022 within a period of three (3) months from the date of receipt of a copy of this order, after affording opportunity to the petitioner as well as the respondents to canvass their grievances. Consequently, the connected Criminal Revision Case is closed.

10.06.2024

Index : Yes / No
Speaking order / Non-speaking order



CrI.R.C.No.908 of 2024

NCC : Yes / No

sp
WEB COPY

To

The V Additional Principal Family Court at Chennai.



WEB COPY



Crl.R.C.No.908 of 2024

M.DHANDAPANI, J.

sp

Crl.R.C.No.908 of 2024

10.06.2024