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Crl.R.C.No.985 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.No.985 of 2024
And
Crl.M.P.No.8354 of 2024**

Venkat @ Venkatasubramanian

... Petitioner

Vs.

1.Vishnuramani
2.Minor.Jayachandran
C/o.Natural Guardian
Ms.Vishnuramani

... Respondents

Prayer:

Criminal Revision Case filed under Section 397 r/w. 401 of Criminal Procedure Code, seeking to call for records in order dated 23.02.2024 passed in Crl.M.P.No.199 of 2022 in M.C.No.21 of 2014 on the file of the Hon'ble Family Court at Perambalur and set aside the same.

For Petitioner : M/s.M.Nirmal Kumar

ORDER

The criminal revision case has been filed seeking to set aside the order dated 23.02.2024 passed in Crl.M.P.No.199 of 2022 in M.C.No.21 of 2014 by the Family Court at Perambalur.



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2.The facts of the case is that the petitioner is the husband and the first respondent is the wife. Their marriage was solemnized on 11.12.2005 and out of the wedlock, they were blessed with the second respondent. Thereafter there was a matrimonial dispute between them and the respondent filed maintenance case under Section 125 of Cr.P.C. in M.C.No.21 of 2014 before the learned Chief Judicial Magistrate, Perambalur seeking a sum of Rs.20,000/- per month as maintenance and the said case was partly allowed on 09.03.2017 and the petitioner was directed to pay a sum of Rs.5,000/- per month (Rs.3,000/- to the first respondent and Rs.2,000/- to the second respondent) towards maintenance from the date of the petition. Thereafter, the respondents filed petition under Section 127 of Cr.P.C. in CrI.M.P.No.199 of 2022 in M.C.No.21 of 2014 before the Family Court at Perambalur seeking enhancement of the maintenance amount from Rs.5,000/- per month to Rs.30,000/- per month and the said petition was partly allowed and the petitioner was directed to pay a sum of Rs.10,000/- per month (Rs.6,000/- to the first respondent and Rs.4,000/- to the second respondent) towards maintenance from the date of the petition seeking enhancement. Challenging the same, the present revision has been filed.



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3.The learned counsel for the petitioner submitted that due to the matrimonial dispute, the petitioner filed H.M.O.P.No.30 of 2008 seeking dissolution of marriage before the Subordinate Court, Virudhachalam and the same was subsequently transferred to the file of Subordinate Court at Perambalur and the same was re-numbered as H.M.O.P.No.42 of 2009. The first respondent filed H.M.O.P.No.172 of 2008 seeking restitution of conjugal rights before the Subordinate Court at Perambalur and vide order dated 25.06.2014, both the H.M.O.Ps. were decided against the petitioner. Further, the Subordinate Court at Perambalur vide order dated 19.08.2010 made in I.A.No.15 of 2009 in H.M.O.P.No.172 of 2008 directed the petitioner to pay a sum of Rs.5,000/- per month towards interim maintenance to the respondent and the said amount was paid till the disposal of H.M.O.P.No.172 of 2008 i.e., 25.06.2014. Again, after disposal of M.C.No.21 of 2014, the petitioner started paying the maintenance amount to the respondents.

4.The learned counsel for the petitioner further submitted that the petitioner is a technician engaged in the occupation of repairing computers in Virudhachalam town and in the neighbourhood and



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earns

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around Rs.20,000/- per month and with the said amount, the petitioner has to take care of himself and his age old father and hence the Court below directing the petitioner to pay a sum of Rs.10,000/- per month towards maintenance is not sustainable one.

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

6.The facts of the case and the relationship between the parties is not disputed. It is undisputed fact that the Subordinate Court at Perambalur vide order dated 19.08.2010 made in I.A.No.15 of 2009 in H.M.O.P.No.172 of 2008 directed the petitioner to pay a sum of Rs.5,000/- per month towards interim maintenance to the respondent and the said amount was paid till the disposal of H.M.O.P.No.172 of 2008 i.e., 25.06.2014. Again, after disposal of M.C.No.21 of 2014, the petitioner started paying the maintenance amount to the respondents.

7.The grounds on which maintenance can be rejected to the



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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.

8.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.

9.Though, the petitioner claims that he is earning only a sum of Rs.20,000/- per month and with the said amount, the petitioner has to take care of himself and his age old father, considering the age of the second respondent i.e., 17 years, this Court is not inclined to interfere with the impugned order, since the second respondent has to pursue his higher studies. Taking into consideration, the present cost of living and the fact that the second respondent has to pursue



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his higher studies, the amount awarded by the Court below, in the considered opinion of this Court is just and reasonable and the impugned order warrants no interference.

10.The petitioner is directed to deposit the entire arrears amount to the credit of Crl.M.P.No.199 of 2022 in M.C.No.21 of 2014 on the file of the Family Court at Perambalur, less the amount if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this order and shall continue to pay a sum of Rs.10,000/- per month to the respondents towards maintenance on or before 7th of every succeeding English Calender Month.

11.This revision is dismissed. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Family Court at Perambalur.

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