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CRP No.3789 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition No.3789 of 2024
and CMP No.20736 of 2024

Abhishek M.D.

.. Petitioner

Vs.

P.Sowmya Shril

..Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 01.12.2023 by the I Additional Principal Judge, Family Court, at Chennai in IA No.1 of 2023 in IDOP No.1921 of 2023.

For Petitioner : Mr.P.Sankaranarayanan



CRP No.3789 of 2024

WEB COPY

ORDER

This Civil Revision Petition arise against the order passed by the learned I Additional Principal Judge, Family Court, at Chennai in IA No.1 of 2023 in IDOP No.1921 of 2023 dated 01.12.2023.

2. The Civil Revision Petitioner is the husband. The wife presented IDOP No.1921 of 2023 seeking for divorce under Section 10(1)(x) of the Indian Divorce Act. The petitioner married the respondent as per Christian rites and customs on 26.06.2013. From the wed-lock, a girl child was born to the couple. Thereafter disputes and differences arose between the parties. Alleging that the husband physically and verbally abused the wife and treated her with cruelty, the wife approached the All Women Police Station at Vepery. Finding that it was not fruitful, she presented the above original petition.

3. Summons was served on the respondent, he has entered appearance.



CRP No.3789 of 2024

WEB COPY

4. Pending the litigation, she took out an application invoking Section 36 of the Indian Divorce Act, 1869. She sought for a direction to the husband to pay a sum of Rs.30,000/- to herself and her child and Rs.25,000/- towards maintenance.

5. The husband filed a counter stating that the wife is a triple degree holder and she is working in an I.T. Company under the name and style of “Zoho”. He would plead that since she is earning a sum of Rs.45,000/- per month, she is not entitled to maintenance. Insofar as the litigation is concerned, he would state that the legal services authority is giving free legal aid to litigants and that the party could approach the said Authority for legal defence. Both the parties filed their affidavit of assets and liabilities as directed by the Supreme Court in ***Rajnish v. Neha and another***, reported in ***AIR 2021 (SC) 569***.

6. The learned Trial Judge came to a conclusion that the husband is earning around Rs.26,000/- per month and he is employed with CSS Corp



CRP No.3789 of 2024

Chennai as Technical Support. Therefore, she concluded that a sum of Rs.12,000/- i.e., Rs.6,000/- each to the petitioner and the girl child would be reasonable in the circumstances. Challenging the said order, this revision arise.

7. Mr.P.Sankara Narayanan, learned counsel would plead that the learned Trial Judge did not take into consideration that the wife is earning more than the husband and therefore, she is not entitled for any amount. He would plead that he would take care of the interest of the child, but cannot maintain the wife, on account of the fact that she is earning more than him and also to the fact that he is suffering from physical ailments and has to take care of the needs of his aged mother. Hence he would plead that the revision deserves admission and an interim order.

8. I have carefully considered the submissions of Mr.Sankara Narayanan.

9. At the outset I have to remind myself that the Court sitting under



CRP No.3789 of 2024

revision under Article 227 of the Constitution of India, would not normally interfere with the order of interim maintenance, unless and until the amount is arbitrary, excessive or bordering on luxury to the respondent. The amount granted to both the parties is only Rs.12,000/-. This works out to about Rs.200/- per day. The parties are residence of Metropolitan City of Chennai. Therefore, the amount which has been awarded by the Court cannot be said to suffer from any of the aforesaid vices.

10. Furthermore, the fact that the wife is earning does not mean she is disentitled to receive maintenance. In terms of Section 36 of the Indian Divorce Act, the wife is entitled to seek maintenance not only for herself but also for the child. The child is around eight years. Her financial demand will obviously be more than the paltry sum of Rs.6,000/- that has been fixed by the learned Trial Judge. It is not as if that the amount that is paid to the wife is going to be exclusively used by her. There is no dispute that the mother has the custody of the child and is attending to her day to day needs.



CRP No.3789 of 2024

WEB COPY 11. Finding that the amount is not excessive, I am not inclined to interfere. The Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is dismissed.

23.09.2024

jv

Index: Yes/No

Internet: Yes/No

Speaking order/Non Speaking order

Neutral Citation: Yes/No

To

The I Additional Principal Judge,
Family Court,
Chennai.



WEB COPY



CRP No.3789 of 2024

V.LAKSHMINARAYANAN, J.

jv

Civil Revision Petition No.3789 of 2024

23.09.2024