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Crl.R.C.No.871 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Crl.R.C.No.871 of 2022
and
Crl.M.P.No.8874 of 2022

R.Gobi

... Petitioner

Vs.

1.Nithya

2.Minor Sashthika

Rep. by her natural guardian/mother/1st respondent ... Respondents

Prayer : Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, praying to set aside the order made in M.C.No.18 of 2020 dated 15.06.2020 passed by the learned Judicial Magistrate No.2, Attur.

For Petitioner : Mr.G.Balamanikandan

For Respondents : Mr.L.Mouli

ORDER

This Criminal Revision Case is filed against the order of the learned Judicial Magistrate No.2, Attur, dated 15.06.2020 in M.C.No.18 of 2020.



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2. The case of the petitioner is that, the marriage of the petitioner/husband and the first respondent/wife was solemnized on 10.09.2017 and the second respondent was born from and out of the wedlock between the petitioner and the first respondent. Due to misunderstanding, the petitioner and the first respondent are living separately. Thereafter, the petitioner filed a petition for Restitution of Conjugal Rights in H.M.O.P.No.188 of 2020 on the file of learned Additional Subordinate Judge, Kallakurichi and the same is still pending. In the meanwhile, the first respondent filed a divorce petition in H.M.O.P.No.57 of 2020 on the file of learned Subordinate Judge, Attur. Further, the respondents have filed a maintenance case under Section 125 of Cr.P.C. in M.C.No.18 of 2020 on the file of learned Judicial Magistrate No.2, Attur, claiming total maintenance amount of Rs.20,000/- per month. After adjudication, the Trial Court awarded a sum of Rs.5,000/- p.m. to the first respondent/wife and Rs.8,000/- p.m. to the second respondent/daughter. Aggrieved by the same, the present revision is filed by the petitioner/husband.



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3. The learned counsel appearing for the petitioner submitted that, the petitioner was working as a Sales Executive in a private company and earning a sum of Rs.16,000/- as monthly income, thereby directing him to pay a sum of Rs.13,000/- per month to the respondents is not sustainable. Further, he submitted that the first respondent subsequently got married with another person and till the second marriage of the first respondent, the petitioner has to pay the maintenance, however, after the marriage, the first respondent is not entitled for any maintenance from the petitioner. He further submitted a sum of Rs.8,000/- as maintenance for the second respondent is highly excessive. Accordingly, he prays for allowing the revision.

4. The learned counsel appearing for the respondents fairly submitted that the second marriage of the first respondent was performed on 01.02.2024, thereby, till 31.01.2024, the petitioner has to pay maintenance to the first respondent as awarded by the Trial Court.

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



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6. There is no dispute about the marriage between the petitioner and the first respondent. The first respondent is the wife and the second respondent is the daughter 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 husband to maintain his wife and child.

7. In the case on hand, though the petitioner claims his salary to be only Rs.16,000/-, which is disputed by the respondents, by placing relevant materials, which have not been shaken in any manner by the petitioner. In such circumstances, this Court is of the view that, by considering all the oral and documentary evidence, the Trial Court has awarded just and reasonable maintenance in favour of the respondents, which cannot be interfered with.



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8. Accordingly, the Criminal Revision Case is dismissed and the order made in M.C.No.18 of 2020 dated 15.06.2020 passed by the learned Judicial Magistrate No.2, Attur is confirmed. Consequently, the connected criminal miscellaneous petition is closed.

02.04.2024

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

To

The Judicial Magistrate No.2, Attur.



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M.DHANDAPANI, J.

sp

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