



Crl.RC.No.1218 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM:

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

Crl.RC.No.1218 of 2024

E.Krishna Chaitanya

...Petitioner

Vs.

1. S.Rajalakshmi

2. Minor Tanish Narayanan Epuri

3. Minor Rithik Rihaan Epuri

(R2 and R3 Represented by R1 S.Rajalakshmi)

...Respondents

Petition filed under Section 397 r/w 401 of Cr.P.C. to call for the records relating to the Maintenance case No.16 of 2022 dated 23.01.2024 on the file of the II Additional Principal Family Court at Chennai and set aside the same by way of allowing this revision case.

For Petitioner : Mr.T.I.Ramanathan

For Respondents : Mr.B.Ganesa Moorthy



Crl.RC.No.1218 of 2024

ORDER

WEB COPY This Criminal Revision case has been filed to set aside the order passed by the II Additional Principal Family Court at Chennai in MC.No.16 of 2022 dated 23.01.2024.

2. The case of the petitioner is that, the marriage between the petitioner/husband and the 1st respondent/wife was solemnized on 27.05.2015 and out of the wedlock they were blessed with the 2nd and 3rd respondents herein. While so, due to some matrimonial dispute, they got separated. In such circumstances, alleging that the petitioner failed to maintain the respondents, they filed a maintenance case under Section 125 of Cr.P.C. in MC.No.16 of 2022 on the file of the II Additional Principal Family Court, Chennai, claiming a monthly maintenance amount of Rs.50,000/- each. After adjudication, the trial Court, vide order dated 23.01.2024, awarded a monthly maintenance of Rs.20,000/- in favour of the 1st respondent and Rs.15,000/- each to the 2nd and 3rd respondents. Aggrieved by the same, the petitioner/husband has come up with the present revision.



3. Learned counsel for the petitioner submitted that, though the petitioner is ready for reunion, however, it is the 1st respondent who refused to live along with the petitioner and his family member. Further, the trial court without considering the financial capacity of the petitioner, had ordered for a total monthly maintenance of Rs.50,000/- payable by the petitioner in favour of the respondents, which is wholly unsustainable, since the annual income of the petitioner itself is only to the tune of Rs.80,000/- and he himself is depending upon his family members to meet out his day to day needs. He further submitted that, the 1st respondent is doing catering business and she is also working as a Makeup artist and earning sufficiently to maintain herself. However, the trial court without considering any of the above said facts had awarded a monthly maintenance of Rs.20,000/- in favour of the 1st respondent and Rs.15,000/- each to the 2nd and 3rd respondents, which is highly excessive and the same has to necessarily be interfered with. Accordingly, he prayed for appropriate orders.

4. Learned counsel for the respondents submitted that, the trial court upon careful perusal of the documents placed before it and after taking into



consideration the assets and liability of the petitioner and also considering the fact that after separation, the 2nd and 3rd respondents/children are under the care and custody of the 1st respondent, had passed the present impugned order awarding a total monthly maintenance of Rs.50,000/- in favour of the respondents and the same does not require any reduction. He further submitted that, though the petitioner made various allegation with regard to the capacity of the 1st respondent to maintain herself, however, no documentary evidence was submitted by the petitioner either before the trial court or before this Court to substantiate his claim and in the absence of any proof, the trial court had rightly ordered for a maintenance in favour of the respondents and the same does not warrant interference of this Court. Accordingly, he prayed for dismissal of this petition.

5. Heard learned counsel on either side and perused the material documents placed on record.

6. There is no dispute about the marriage between the petitioner and the 1st respondent. The 1st respondent is the wife and out of their wedlock,



the 2nd and 3rd respondents were born. 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. The grounds on which maintenance can be rejected to the wife can be only on the ground that wife is able to maintain herself and she has the requisite means to maintain herself and 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, only on such of those grounds, maintenance could be negated against the wife.

8. In the case on hand, it is not the case of the petitioner/husband that she is living in adultery or that he is ready to maintain her if she comes and lives with him, but that, his wife is refusing to unite with him. Though it is the claim of the petitioner that his wife has sufficient means to maintain



herself, however, in order to establish the same, no documentary evidence has been filed by the petitioner.

9. Be that as it may. Though various contentions and counter contentions have been advanced in support of the plea of maintenance, however, considering the fact that a balance has to be met between the warring spouses, in the interest of the parties, this Court is inclined to modify the impugned order in the following terms :-

(i) The petitioner is directed to pay a sum of Rs.15,000/- as monthly maintenance in favour of each of the respondents from the date of filing of the maintenance petition and shall continue to pay the said amount on or before the 5th day of every English Calendar month;

(ii) the petitioner is directed to pay the entire arrears of maintenance amount at the rate of Rs.15,000/- per month in favour of each of the respondents as fixed by this Court, less than the amount if any already paid, to the respondents within a period of four weeks from the date of receipt of a copy of this order.



CrI.RC.No.1218 of 2024

10. With the above directions and modifications, this Criminal

Revision Case stands allowed in part.

26.07.2024

skt

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To

The II Additional Principal Family Court,
Chennai.



WEB COPY



Crl.RC.No.1218 of 2024

M.DHANDAPANI, J.

skt

Crl.RC.No.1218 of 2024

26.07.2024