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Crl.R.C.No.1014 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Crl.R.C.No.1014 of 2023

and

Crl.M.P.No.8109 of 2023

Balamurugan

... Petitioner

Vs.

1.Rekha

2.Mahathi - Minor

Rep. by her mother and natural
guardian the 1st respondent Rekha

... Respondents

Prayer : Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, praying to call for the records and set aside the order dated 22.02.2023 passed in M.C.No.386 of 2016 by the V Additional Principal Family Court at Chennai.

For Petitioner : Mr.K.Venkateswaran

For Respondents : No appearance

ORDER

This Criminal Revision Case is filed against the order of the V Additional Principal Family Court at Chennai, dated 22.02.2023 made in M.C.No.386 of 2016.



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2. The case of the petitioner is that, the marriage of the petitioner/husband and the 1st respondent/wife was solemnized on 11.09.2011 at Vadapalani Murugan Temple as per Hindu Rites and Customs in the presence of friends, relatives and family members of both sides and the 2nd respondent/daughter was born from and out of the wedlock between the petitioner and the 1st respondent. Due to misunderstanding, the petitioner and the 1st respondent are living separately. Thereafter, the petitioner filed a petition for divorce in H.M.O.P.No.1873 of 2015 on the file of II Additional Family Court, Chennai, which was subsequently dismissed for default on 20.02.2017 and thereafter, the same was restored. As a counter blast for the said petition for dissolving the marriage on the ground of cruelty, the 1st respondent on 03.11.2016 filed O.P.No.3598 of 2016 on the file of the I Additional Family Court, Chennai and the same was transferred to V Additional Principal Family Court, Chennai. Thereafter, the 1st respondent filed a petition under Section 125 of Cr.P.C. claiming maintenance of Rs.1,75,000/- p.m. to the 1st respondent and Rs.75,000/- p.m. to the 2nd respondent. The Trial Court, by its order dated 22.02.2022 directed the petitioner to pay the monthly maintenance of Rs.25,000/- to the 1st respondent and Rs.15,000/- to the 2nd respondent. Aggrieved by the same,



the present revision is filed by the petitioner/husband.

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3. The learned counsel for the petitioner submitted that, as per the interim stay granted by this Court on 16.06.2023, the petitioner is continuously depositing 50% of the maintenance amount awarded by the trial court in respect of the 1st respondent, i.e., Rs.12,500/- before the trial court till date and paying a sum of Rs.15,000/- in respect of the 2nd respondent till date. He also submitted that, the petitioner came to know that the 1st respondent was earning more than Rs.1 lakh. Therefore, he submitted that the 1st respondent is not entitled to receive monthly maintenance of Rs.25,000/- from the petitioner and he has also produced proof before this Court to that effect. However, he submitted that the petitioner is ready to pay the monthly maintenance to the 2nd respondent continuously. Accordingly, he prays for appropriate orders.

4. Though respondents entered appearance through a counsel, there is no representation on behalf of them when the case is called today. However, considering the nature of the case, this Court is inclined to dispose of the same based on the materials available on record.



5. 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 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.

6. In the case on hand, though the petitioner claims the 1st respondent was earning more than Rs.1 lakh, however at the relevant point of time, the petitioner not proved the same before the trial court by producing the salary certificate of the 1st respondent. In such circumstances, this Court is not inclined to interfere with the order passed by the trial court. Accordingly, the order passed by the V Additional Principal Family Court at Chennai in M.C.No.386 of 2016 dated 22.02.2023 is confirmed and the petitioner is directed to pay the maintenance amount awarded by the Trial Court to the respondents 1 and 2 on or before 5th day of every English calender month.

7. Insofar as the arrears of maintenance is concerned, considering



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the fact that, now, the petitioner is having the salary certificate of the 1st respondent, which shows that the 1st respondent is earning more than Rs.1 lakh, the petitioner is directed to deposit 50% of the arrears amount towards maintenance to the credit of M.C.No.386 of 2016, within a period of two weeks from the date of receipt of a copy of this order. Upon such deposit being made, liberty is granted to the petitioner to file a petition under Section 127 of Cr.P.C. before the trial court for reduction of the maintenance amount awarded to the 1st respondent based on the materials to be filed by the petitioner. On such petition being filed, the trial court shall decide the same on merits and in accordance with law and pass appropriate orders, within a period of four (4) weeks thereafter.

8. With the above observations and directions, the Criminal Revision Case is disposed of. Consequently, connected criminal miscellaneous petition is closed.

02.04.2024

Index : Yes / No
Speaking order / Non-speaking order
NCC : Yes / No
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M.DHANDAPANI, J.

sp

To

The V Additional Principal Family Court, Chennai.

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