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C.M.A.No.2733 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
and
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.2733 of 2019

P.Sasikumar ... Appellant

Vs.

Maheswari @ Rajeswari ... Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 19 of Family Courts Act, 1984, against the Order and decree dated 23.04.2019 made in F.C.H.M.O.P.No.36 of 2017 on the file of the Family Court, Ariyalur.

For Appellant : Mr.Kumaralingam.D.

For Respondent : Mr.K.Sanjay

JUDGMENT

(Judgment of the Court was delivered by J. Nisha Banu, J)

This Appeal has been filed by the appellant/husband challenging the dismissal order passed by the Family Court at Ariyalur, in F.C.H.M.O.P.No.36 of 2017 dated 23.04.2019, in which, the appellant



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has sought for grant of divorce.

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2. Today, when the matter is taken up, the learned counsel for the respondent/wife stated that the appellant/husband has not paid maintenance amount as ordered by the Family Court, Perambalur in M.C.No.11 of 2013.

3. It is relevant to point out at this juncture, the decision of the Hon'ble Supreme Court reported in ***Kaushalya v. Mukesh Jain, (2020) 17 SCC 822*** wherein it has been held as follows:

"In the event that there is any failure on the part of the respondent to comply with the order for deposit of arrears and month to month installments, it will be open to the appellant to apply before the Family Court to get the defence of the respondent struck off."

4. Further, in the decision reported in ***AIR 2021 SC 569 (Rajnish vs. Neha)***, the Hon'ble Supreme Court had passed a detailed judgment giving certain Guidelines / Directions on Maintenance to be followed and in the said decision, the Hon'ble Supreme Court has been observed as follows:

The Court concluded that if there was non-payment of interim maintenance, the defence of the respondent is liable to be struck off,



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and the appeal filed by the appellant-wife can be allowed, without hearing the respondent.

5. In the present case, the appellant has not paid the maintenance till date as directed by the Family Court.

6. In view of the above, we are not inclined to allow the appellant/husband to prosecute the appeal without paying the maintenance. Hence, the Civil Miscellaneous Appeal stands dismissed.

No costs.

(J.N.B, J.) (R.S.V., J.)
04.12.2024

vsi

To

The Family Court, Ariyalur.

J. NISHA BANU, J.



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