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Crl.R.C.No.994 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.994 of 2022
and
Crl.M.P.No.10382 of 2022

S.Dhandapani

... Petitioner

Vs.

1.S.Deepika

2.Minor D.Riyasri

Rep. by her mother and natural guardian S.Deepika

... Respondents

Prayer : Criminal Revision Case filed under Section 397 and 401 Cr.P.C, praying to allow the revision petition and set aside the final order dated 09.03.2022 passed in M.C.No.167 of 2017, by the Principal Family Court at Coimbatore.

For Petitioner : Mr.J.Michael Visuvasam

For Respondents : Mr.J.Ravikumar

ORDER



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This Criminal Revision Case is filed against the order of the Principal Family Court, Coimbatore dated 09.03.2022 in M.C.No.167 of 2017.

2. The case of the petitioner is that, the marriage of the petitioner/husband and the first respondent/wife was solemnized on 20.08.2010 as per Hindu Rites and Customs and the second respondent/daughter 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 divorce in H.M.O.P.No.67 of 2016 and the first respondent filed a petition for Restitution of Conjugal Rights in H.M.O.P.No.1173 of 2017. During the pendency of the said petitions, the respondents have filed a maintenance case under Section 125 of Cr.P.C. in M.C.No.167 of 2017 on the file of Principal Family Judge, Coimbatore, claiming monthly maintenance of Rs.15,000/- to the first respondent and Rs.50,000/- to the second respondent. All the petitions were clubbed together and common order was passed, in which Trial Court dismissed the divorce petition filed by the petitioner and allowed



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the restitution of conjugal rights petition filed by the first respondent and awarded a sum of Rs.5,000/- p.m. to the first respondent/wife and Rs.20,000/- p.m. to the second respondent/daughter. Challenging the order passed in the divorce and restitution of conjugal rights petition, the petitioner has preferred a civil miscellaneous appeal before this Court and the same is pending. Aggrieved by the order passed in M.C., the present revision is filed by the petitioner/husband.

3. The learned counsel appearing for the petitioner submitted that, the first respondent was employed as an Assistant Manager in Karur Vysya Bank and earning a sum of Rs.11 lakhs per annum. He further submitted that the first respondent being a earning member of the family, she has to financially contribute for the welfare of the second respondent. Further, he submitted that, though at the time of filing of M.C., the second respondent was studying in 1st standard, the Trial Court has awarded a sum of Rs.20,000/- per month to the second respondent, which is highly excessive. Accordingly, he prays for allowing the revision.



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4. Per contra, the learned counsel appearing for the respondent submitted that, by considering all the oral and documentary evidence, the Tribunal has awarded just and reasonable compensation in favour of the respondents, which cannot be interfered with. Accordingly, he prays for dismissal of this revision.

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

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 the first



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respondent was earning a sum of Rs.11 lakhs per annum, however it is the duty of the petitioner to maintain his wife and child, even though the first respondent/wife was a earning member of the family. Therefore, considering the cost of living and education expenditure of the second respondent/daughter, since she was studying under CBSE syllabus in a reputed school at Coimbatore, this Court is of the view that, the Tribunal has awarded just and reasonable maintenance in favour of the respondents by considering all the oral and documentary evidence, which cannot be interfered with.

8. Accordingly, the Criminal Revision Case is dismissed and the order passed by the Principal Family Court, Coimbatore in M.C.No.167 of 2017, dated 09.03.2022 is confirmed. Consequently, the 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.



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To

The Principal Family Court, Coimbatore.

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