



Crl.R.C.Nos.873 & 986 of 2021 and 986 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 24.04.2024**

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

**Crl.R.C.Nos.873 & 986 of 2021 and 986 of 2023**

**and**

**Crl.M.P.Nos.13362, 13124 & 13125 of 2021 and 8011 of 2023**

Crl.R.C.Nos.873 & 986 of 2021

C.Devasenapathy

... Petitioner

Vs.

1.D.Radha

2.Minor D.Prahulraja

Minor represented by his mother/guardian

D.Radha

... Respondents

Crl.R.C.No.986 of 2023

D.Radha

... Petitioner

Vs.

C.Devasenapathy

... Respondent

**Prayer in Crl.R.C.No.873 of 2021 :** Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C, praying to set aside the order passed by the 1<sup>st</sup> Additional District and Sessions Judge, Tirupur in C.A.No.120 of



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2018 dated 10.03.2021 against the order passed by the Judicial Magistrate of Palladam in D.V.A.No.7 of 2016 dated 16.10.2018.

**Prayer in Crl.R.C.No.986 of 2021 :** Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C, praying to set aside the order passed by the 1<sup>st</sup> Additional District and Sessions Judge, Tirupur in C.A.No.121 of 2018, dated 10.03.2021 against the order passed by the Judicial Magistrate of Palladam in D.V.A.No.7 of 2016 dated 16.10.2018.

**Prayer in Crl.R.C.No.986 of 2023 :** Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C, praying to set aside the common judgement dated 31.01.2023 passed by the Principal Sessions Judge, Tiruppur made in C.R.P.No.32 of 2022 and allow the order dated 01.09.2022 in M.C.No.05 of 2020 on the file of the Judicial Magistrate, Palladam.

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For Petitioner : Mr.V.S.Kesavan

For Respondents : Mr.T.Gowthaman  
Senior Counsel  
for M/s.T.Balaji

**Crl.R.C.No.986 of 2023**

For Petitioner : Mr.T.Gowthaman  
Senior Counsel  
for M/s.T.Balaji

For Respondent : Mr.V.S.Kesavan

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### **COMMON ORDER**

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Since the issue involved in these revision are interconnected, with the consent of the learned counsel appearing for the parties, these revisions were heard together and disposed of by this common order.

2. For brevity, the petitioner in CrI.R.C.No.986 of 2023 is hereinafter referred to as the 'petitioner' and the petitioner in CrI.R.C.No.873 and 986 of 2021 is hereinafter referred to as the 'respondent'. The respondent and the petitioner are husband and wife and the marriage between them was solemnized on 29.11.2009 at Kangayam PSG Ponnammal Thirumana Mahal and thereafter, the petitioner had begotten a male child on 09.09.2010. Due to misunderstanding, the petitioner was living separately in Palladam in a rental house along with her son. Thereafter, the petitioner had filed D.V.A.No.07 of 2016 for maintenance towards her son as well as for compensation and on 16.10.2018, the said petition was allowed ordering maintenance of Rs.35,000/-, as against the same, both the petitioner as well as the respondent preferred criminal appeal and the both the appeals were taken up together and C.A.No.120 of 2018 and C.A.No.121 of 2018 were



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ordered by the appellate court by confirming the maintenance amount at the rate of Rs.35,000/- and ordering compensation of Rs.3,22,500/- to the petitioner. Challenging the same, the respondent has filed Crl.R.C.Nos.873 and 986 of 2021 before this court.

2.1. In the meanwhile, since the respondent refused to maintain the petitioner and her child, the petitioner filed maintenance case u/s 125 of Cr.P.C. in M.C.No.05 of 2020 on the file of Judicial Magistrate Court, Palladam claiming a monthly maintenance of Rs.50,000/-. After adjudication, the trial court by its order 01.09.2022 awarded a sum of Rs.34,500/- p.m. to the petitioner, against which, the petitioner preferred C.R.P.No.23 of 2022 seeking enhancement of maintenance and the respondent preferred C.R.P.No.32 of 2022 challenging the order of maintenance passed in favour of the petitioner, in which, the court below has passed a common judgment dated 31.01.2023 dismissing the petition filed by the petitioner and allowing the petition filed by the respondent. Challenging the same, the petitioner has filed Crl.R.C.No.986 of 2023 before this Court.



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3. Learned Senior Counsel appearing for the petitioner/wife submitted that, the respondent/husband was working as a HR executive and earning a sum of Rs.1,61,789/-. Apart from that, the respondent was owning 64 acres of land, from which, income is being derived. Therefore, his over all income is around Rs.3 lakhs p.m. However, the trial court has ordered only Rs.70,000/- in toto in the maintenance case and DVA case, which is wholly unsustainable, which requires interference of this court. Accordingly, the learned Senior Counsel prays for appropriate orders.

4. The learned counsel appearing for the respondent/husband submitted that the assets and liability of the respondent was produced before the trial court and as per the salary certificate, the respondent was earning a sum of Rs.1,32,000/-. He further submitted that the respondent is ready to pay reasonable amount to the petitioner as maintenance and the same may be fixed by this court. Accordingly, he prays for appropriate orders.

5. Heard the learned Senior Counsel appearing for the petitioner



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and the learned counsel appearing for the respondent and also perused the materials available on record.

6. Admittedly, the respondent and the petitioner are husband and wife. A perusal of the entire record reveals that, in D.V.A.No.7 of 2016, the trial court passed an order dated 16.10.2018 granting maintenance of Rs.35,000/- p.m. to the minor son and negated the other relief sought by the petitioner. Questioning the grant of maintenance to the minor son at Rs.35,000/- p.m., the respondent filed C.A.No.120 of 2018 and as against the dismissal of other reliefs, the petitioner has filed C.A.No.121 of 2018 and. After perusing both oral and documentary evidence produced by both the parties, the appellate court dismissed C.A.No.120 of 2018 confirming the maintenance amount at Rs.35,000/- in favour of the petitioner and partly allowed C.A.No.121 of 2018 directing the respondent to pay Rs.1,22,500/- towards the cost of 3.5 sovereigns and Rs.2,00,000/- as compensation to the petitioner vide judgement dated 10.03.2021.

7. The first issue which arises for consideration is whether the



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judgement passed in C.A.No.121 of 2018 dated 10.03.2021 by the appellate court is just and reasonable or not ?

8. In this regard, this court perused the judgment, from which, it is seen that the petitioner has examined P.W.5 in order to prove that the 3.5 sovereigns of the bangles are belonging to the petitioner and examined P.W.6, namely the doctor in order to prove that the petitioner was subjected to mental depression and for which she has taken treatment. Therefore, the appellate court has directed the respondent to pay Rs.1,22,500/- towards the cost of 3.5 sovereigns and Rs.2,00,000/- towards compensation to the petitioner, which cannot be said to be perverse or unreasonable. Therefore, this Court is not inclined to interfere with the impugned judgement passed by the appellant court in C.A.No.121 of 2018 dated 10.03.2021.

9. Insofar as the maintenance in favour of the petitioner and her son, considering the facts and circumstances of the case and the cost of living and also the fact that the respondent/husband, on his own volition has submitted that this Court may fix reasonable amount as maintenance,



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this court is inclined to pass the following orders :-

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(i) the respondent/husband is directed to pay a sum of Rs.30,000/- p.m. to the petitioner/wife and Rs.20,000/- p.m. to the son as monthly maintenance;

(ii) the respondent/husband is directed to deposit the entire arrears of maintenance at the rate of Rs.30,000/- p.m. to the petitioner/wife and Rs.20,000/- p.m. to the son from the date of respective petitions till the date of this order within a period of four (4) weeks from the date of receipt of a copy of this order;

(ii) the respondent is directed to continue to pay the above modified maintenance amount to the petitioner/wife and son on or before the 7<sup>th</sup> day of every English Calendar month;

(iii) the respondent is directed to bare the educational expenditure of the son.

10. In the result, Crl.R.C.Nos.873 of 2021 and 986 of 2023 are disposed of with the above terms and Crl.R.C.No.986 of 2021 is dismissed confirming the judgement passed by the I Additional District



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and Sessions Judge, Tirupur in C.A.No.121 of 2018, dated 10.03.2021.

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Consequently, the connected criminal miscellaneous petitions are closed.

**24.04.2024**

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Index : Yes / No

Speaking order / Non-speaking order

NCC : Yes / No

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To

- 1.The I Additional District and Sessions Judge, Tirupur.
- 2.The Principal Sessions Judge, Tiruppur.
- 3.The Judicial Magistrate of Palladam.



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**M.DHANDAPANI, J.**

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