



Crl.R.C.No.1274 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1274 of 2024 and
Crl.M.P.No.11151 of 2024

P.Rajendran

... Petitioner

Vs.

1.C.Lavanya
(Female Aged 39 years),
W/o.P.Rajendran.

2.Minor R.Yashika,
Aged about 12 years,
Represented by Natural Guardian C.Lavanya,
D/o.P.Rajendran.
Both residing at
No.4/7, Kattapomman Street,
No.2. Surampatti Erode Taluk,
Erode District-638009.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Cr.P.C, to call for the records pertaining to the order dated 22.01.2024 passed by the Judge Family Court at Erode in M.C.No.11 of 2021 and set aside the same.



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For Petitioner : Mr.D.Prasanna

For Respondent : Mr.S.Thirukkumaran

ORDER

The petitioner is the estranged husband of the 1st respondent and father of the 2nd respondent. The respondents filed maintenance case in M.C.No.11 of 2021 before the learned Judge, Family Court, Erode seeking maintenance of Rs.10,000/- to the 1st respondent and Rs.15,000/- to the 2nd respondent. The learned Judge, Family Court, Erode by order, dated 22.01.2024 partly-allowed the petition directing the petitioner to pay Rs.5,000/- to the 1st respondent and Rs.10,000/- to the 2nd respondent, in total Rs.15,000/-, on or before 5th of every English calender month. Challenging the same, the present criminal revision case is filed.

2.The learned counsel for the petitioner submits that the respondents filed maintenance case in M.C.No.11 of 2021 on the ground that the petitioner and the 1st respondent had love affair and got married against their parents wish on 22.12.2009. Out of the marriage, the 2nd respondent born



on 19.12.2012. After birth of the 2nd respondent, the petitioner is projected as though he lost interest in the matrimonial life and started to pick up quarrel and fight with the 1st respondent and finally the 1st respondent was abused and chased out from the matrimonial home on 05.10.2014. In fact the petitioner filed HMOP.No.617 of 2014, at that time the 1st respondent promised to join the petitioner and HMOP was withdrawn. After withdrawal of HMOP, again the 1st respondent deserted the matrimonial home and started to live separately with the 2nd respondent. The petitioner is a Driver in Tamil Nadu State Transport Corporation, Kangeyam and he has got some ancestral property. Before the Family Court, the petitioner filed asset and liability statement, salary certificate and property details. The 1st respondent also produced the asset and liability statement suppressing her employment and monthly earnings. During cross examination of the 1st respondent, fairly admits that now she is working as a KG Class Teacher in Amirtha School and from the year 2015, she employed in AET School. Having monthly income and deserting the matrimonial home on her own, she cannot claim any monthly maintenance.



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3.The learned counsel further submitted that the petitioner is a Driver in the Tamil Nadu State Transport Corporation, Kangeyam and his monthly salary is Rs.27,028/-. In the statement, the petitioner gave particulars of the 1st respondent's income and her assets. But the Trial Court passed the maintenance order directing the petitioner to pay maintenance of Rs.5,000/- to the 1st respondent and Rs.10,000/- to the 2nd respondent in total Rs.15,000/- by 5th of every English calender month. The learned counsel for the petitioner referring to the evidence and asset and liability statement of the 1st respondent reiterated the 1st respondent's admission of employment and the petitioner's salary and his status. Further, the petitioner has to take care of his elderly parents who are sick now. Since the petitioner's salary only around Rs.27,028/- with deductions, the petitioner can pay a sum of Rs.8,000/- to his daughter/2nd respondent and also to pay education expenses.



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4.He further submitted that in the name of the 2nd respondent, the 1st respondent filed civil suit in O.S.No.79 of 2021 before the Subordinate Court, Kangeyam claiming share over the petitioner's family property. He also produced the memo, dated 27.09.2024 calculating maintenance amount of Rs.8,000/- to the 2nd respondent showing that from March 2021 to August 2024 the petitioner is due to the sum of Rs.3,36,000/- which he paid by way of demand draft in No.715443, dated 21.09.2024 drawn on Indian Overseas Bank, Kangeyam in the name of the 2nd respondent. The 1st respondent received the demand draft and encashed the same.

5.The learned counsel for the respondents submits that the 1st respondent's employment is only temporary, hence it cannot be construed the 1st respondent has got regular source of income. The petitioner and the 1st respondent had love marriage for some period living happily. Thereafter, the petitioner developed some animosity against the 1st respondents after the child birth of the 2nd respondent. Finally, the 1st respondent chased out from the matrimonial home and now she is taking care of minor daughter/2nd respondent who is studying 7th std. Being a single mother, she is facing it



difficult to bring up her daughter. The learned counsel further submitted that the 1st respondent is working in a private school temporarily, not permanent. In the asset and liability statement, the 1st respondent not mentioned her temporary employment, but in her evidence she fairly admitted the same. The Trial Court considered the evidence and materials produced by the respondents, rightly ordered maintenance of Rs.5,000/- to the 1st respondent and Rs.10,000/- to the 2nd respondent. Though the petitioner states that he is ready to pay the education fees to the minor girl/2nd respondent, he has not paid even a single rupee towards the same.

6.At this stage, the learned counsel for the petitioner submits that if the 1st respondent furnishes details of the education expenses of the 2nd respondent, the same will be paid by the petitioner without fail.

7.Considering the submissions and on perusal of the materials, it is seen that the petitioner is working as Driver in the Tamil Nadu State Transport Corporation, Kangeyam receiving monthly salary of Rs.27,028/-. The 1st respondent admits that she was working in AET School from the



year 2015 as Teacher and now working as KG Teacher in Amirtha School.

In view of the same, the maintenance amount of Rs.5,000/- ordered by the learned Judge, Family Court, Erode to the 1st respondent is not proper and the same is set aside.

8.As regards the maintenance of Rs.10,000/- ordered to the 2nd respondent is concerned, considering the undertaking given by the petitioner that he is ready to pay Rs.8,000/- to the 2nd respondent on every month and also ready to bear education and other expenses of the 2nd respondent and the petitioner already paid Rs.3,36,000/-, this Court reduces the maintenance amount of Rs.10,000/- ordered to the 2nd respondent to Rs.8,000/- with the condition that the 1st respondent shall inform the petitioner, education and other expenses of the 2nd respondent as and when arises and the same to be paid without delay. Apart from education and other expenses of the 2nd respondent, the petitioner shall pay Rs.8,000/- to the 2nd respondent on or before 5th of every English calendar month.



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Consequently, connected criminal miscellaneous petition is closed.

24.10.2024

Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation: Yes/No

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To

The Judge,
Family Court, Erode.



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M.NIRMAL KUMAR, J.

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