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Crl.R.C.No.1157 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.No.1157 of 2024
and Crl.M.P.No.9655 of 2024**

S.Suresh

... Petitioner

Vs.

1.Sasikala

2.Minor S.Paramesh

3.Minor S.Ganesh

Respondents 2 and 3 are represented by the first respondent/
mother and natural guardian.

... Respondents

PRAYER : Criminal Revision Petition filed under Section 397 r/w. 401 of the code of Criminal Procedure, to set aside the judgment dated 22.03.2024 passed by the Family Court, Thiruvallur in M.C.No.17 of 2023.

For Petitioner : Mr.D.Jayapriya



Crl.R.C.No.1157 of 2024

WEB COPY

ORDER

The Criminal Revision Case is filed against the impugned order dated 22.03.2024 passed in M.C.No.17 of 2023 by the Family Court, Thiruvallur.

2. The case of the petitioner is that the petitioner is the husband of the first respondent and the marriage between the petitioner and the first respondent was solemnized in the year 2008 and they were blessed with two children, namely, Paramesh and Ganesh, who are the second and third respondents herein. After the marriage, there was a matrimonial dispute between them and the first respondent left the matrimonial home. Thereafter, she filed a petition in H.M.O.P.No.197 of 2021 for restitution of conjugal rights and the same was dismissed on the ground that she left the house without any reasonable cause and refused to live with the petitioner. The petitioner has also filed a petition in H.M.O.P.No.51 of 2023 for divorce and the same is pending. In the meantime, the respondents filed a maintenance case in M.C.No.17 of 2023 before the Family Court, Tiruvallur, claiming Rs.20,000/- per month to each of the respondents and the trial Court has



Crl.R.C.No.1157 of 2024

directed the petitioner to pay monthly maintenance of Rs.10,000/- per month to each of the respondents from the date of petition or deposit the maintenance amount to the Bank account of the respondents before 10th of every English Calendar month commencing from May 2024. Challenging the same, the present petition has been filed.

3. The learned counsel appearing for the petitioner submits that the petitioner has studied upto only 5th standard, whereas, the first respondent is a M.Com qualified graduate and he has not much amount as claimed by the first respondent. However, the trial Court has ordered monthly maintenance of Rs.10,000/- per month to each of the respondents which is not justifiable one. Hence, he prays for appropriate orders.

4. Heard the learned counsel appearing for the petitioner.

5. It appears that the respondents, who are the wife and children of



Crl.R.C.No.1157 of 2024

the petitioner, have filed a maintenance case in M.C.No.17 of 2023, seeking monthly maintenance of Rs.20,000/- per month to the each of the respondents. After considering the financial position of the petitioner and the fact that he is running the Garments Company at Padiyanallur, the trial Court has ordered monthly maintenance of Rs.10,000/- to the each of the respondents.

6. The grounds on which maintenance can be rejected to the wife can be only on the ground that wife is able to maintain herself and she has the requisite means to maintain herself and that she is not living in adultery and where the person, who offers to maintain his wife on condition of her living with him and she refuses to live with him, only on such of those grounds, maintenance could be negatived against the wife.



Crl.R.C.No.1157 of 2024

WEB COPY

7. In the case on hand, it is not the case of the petitioner/husband that his wife has sufficient means to maintain herself by her earnings or that she is living in adultery or that he is ready to maintain her if she comes and lives with him, but that his wife is refusing to unite with him. There is no specific plea on the aforesaid three fronts and, therefore, necessarily, the wife is entitled to maintenance under Section 125 Cr.P.C and appreciating the above in proper perspective, the Court below has granted maintenance. Hence, this Court is not inclined to interfere with the order dated 22.03.2024 passed in M.C.No.17 of 2023 by the Family Court, Tiruvallur.

8. Accordingly, the Criminal Revision Case is dismissed.
Connected miscellaneous petition is closed.

05.07.2024

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
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To

Page 5 of 7



Crl.R.C.No.1157 of 2024

The Family Court, Tiruvallur.

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Crl.R.C.No.1157 of 2024

M.DHANDAPANI, J.

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Crl.R.C.No.1157 of 2024

05.07.2024