



Crl.RC.No.1207 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.04.2024

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

Crl.RC.No.1207 of 2023

and

Crl.MP.No.9482 of 2023

M.Lokesh Kumar

...Petitioner

Vs.

1. Subha Murugesan

2. Minor L.Druvanth

Rep. by his mother and natural guardian

Subha Murugesan

...Respondents

Petition filed under Section 397 r/w 401 of Code of Criminal Procedure to call for the records connected with M.C.No.44 of 2022 on the file of the learned Judicial Magistrate, Additional Mahila Court, Alandur and set aside the order dated 05.06.2023.

For Petitioner : M/s.Raji

For Respondents : Mr.N.V.V.Krishna



Crl.RC.No.1207 of 2023

ORDER

WEB COPY This Criminal revision petition has been filed to set aside the order of the Judicial Magistrate, Additional Mahila Court, Alandur dated 05.06.2023 made in M.C.No.44 of 2022. The learned Judge has ordered maintenance of Rs.30,000/- per month to the 2nd respondent.

2. The case of the petitioner is that, the marriage between the petitioner/husband and the 1st respondent/wife was solemnized on 22.02.2019 and out of their wedlock, they were blessed with the 2nd respondent herein on 22.12.2019. However, due to some difference of opinion, the petitioner and the 1st respondent got separated and the 2nd respondent is under the care and custody of the 1st respondent. Thereafter, the respondents filed a maintenance case under Section 125 of Cr.P.C. in MC.No.44 of 2022 on the file of the Judicial Magistrate, Additional Mahila Court, Alandur, claiming maintenance amount of Rs.50,000/- per month. After adjudication, the trial Court awarded a sum of Rs.30,000/- per month to the 2nd respondent. Aggrieved with the said order, the petitioner/husband has filed the present revision.



3. Learned counsel for the petitioner submitted the maintenance awarded by the trial court in favour of the 2nd respondent/child is highly excessive. Further, the Trial court failed to note that the 1st respondent is the one who deserted the petitioner and though the petitioner had filed petition for Restitution of Conjugal rights in HMOP.No.188 of 2021 before the Sub-Court, Alandur, it is the 1st respondent who refused to rejoin with the petitioner and despite the earnest efforts made by the petitioner, the 1st respondent never allowed the petitioner to see his own child i.e., the 2nd respondent. Further, the 1st respondent is also working and is earning about Rs.1 Lakh per month. Whiles, directing the petitioner to pay a maintenance of Rs.30,000/- per month is wholly unsustainable. Accordingly, he prayed for appropriate orders.

4. Learned counsel for the respondents submitted that, the 2nd respondent/child is a born diabetic patient and the 1st respondent has to take care of the 1st respondent by spending huge amount and further the petitioner is earning more than Rs.1,50,000/- per month and the monthly maintenance amount of Rs.30,000/- awarded by the trial court in favour of



the 2nd respondent/child is very meagre and the same does not require any further reduction. Accordingly, he prayed for dismissal of this petition.

5. There is no dispute about the marriage between the petitioner and the 1st respondent. The 1st respondent is the wife and out of their wedlock, they were blessed with the 2nd respondent herein. 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.

6. It is equally not in dispute that the 2nd respondent is a born diabetic patient and is under the care and custody of the 1st respondent and the respondents filed a maintenance case under Section 125 of Cr.P.C. in MC.No.44 of 2022, claiming maintenance amount of Rs.50,000/- per month in favour of the 2nd respondent/child and no maintenance has been claimed by the 1st respondent/wife and after adjudication, the trial Court awarded a sum of Rs.30,000/- per month, which does not require interference.



WEB COURT

7. However, it is pertinent to note that, while a sum of Rs.30,000/- has been awarded as maintenance to the 2nd respondent, no amount has been awarded to the 1st respondent. However, considering the fact that the petitioner claims that his wife is also gainfully employed, which has not been disputed, but however, the monthly earnings of either party having not been established, necessarily this Court would have to consider awarding proper amounts to both the respondents. Further, it is also to be pointed out that it is equally the duty of the mother, viz., the 1st respondent to take care of her child, when she is employed and, therefore, in the interest of justice, this Court is inclined to modify the maintenance awarded by the Tribunal between the two respondents. Accordingly, out of the sum of maintenance of Rs.30,000/- awarded, while the 1st respondent is awarded maintenance at Rs.10,000/-, the 2nd respondent is awarded maintenance at Rs.20,000/-.

8. Accordingly, while this Court confirms the amount of maintenance ordered by the trial court, however, is inclined to modify the payment of the said maintenance in the following terms :-



Crl.RC.No.1207 of 2023

(i) the petitioner is directed to pay the arrears of maintenance amount, less than the amount, if any, already paid to the respondents within a period of six weeks from the date of receipt of a copy of this order ;

(ii) Henceforth, the petitioner is directed to pay the maintenance at Rs.10,000/- per month in favour of the 1st respondent/wife and a sum of Rs.20,000/- per month in favour of the 2nd respondent/child on or before the 7th day of every English Calendar month

9. With the above direction and modification, this Criminal Revision Case stands dismissed. Consequently, the connected miscellaneous petition is closed.

04.04.2024

skt

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To

1. The Judicial Magistrate, Additional Mahila Court, Alandur.
2. The Public Prosecutor
High Court, Madras.

6/7



WEB COPY



Crl.RC.No.1207 of 2023

M.DHANDAPANI, J.

skt

Crl.RC.No.1207 of 2023
and
Crl.MP.No.9482 of 2023

04.04.2024