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Crl.RC.No.1248 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

CORAM:

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

Crl.RC.No.1248 of 2024

and

Crl.MP.No.10864 of 2024

G.Haribhaskar

...Petitioner

Vs.

1. Susitra.K
2. Minor Praneeth Nikilan
(Minor represented by his Mother, the 1st respondent) ...Respondents

Petition filed under Section 397 r/w 401 of Cr.P.C. to call for the records in MP.No.209 of 2024 in MC.No.432 of 2023 on the file of IV Additional Principal Family Court at Chennai and set aside the order dated 24.05.2024.

For Petitioner : Ms.M.Malar

ORDER

This Criminal Revision case has been filed seeking quashment of the order of the IV Additional Principal Family Court, Chennai dated 24.05.2024 made in MP.No.209 of 2024 in MC.No.432 of 2023.



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2. The case of the petitioner is that, the marriage between the petitioner/husband and the 1st respondent/wife was solemnized on 30.01.2020 and out of the wedlock they were blessed with the 2nd respondent herein. While so, due to some misunderstanding, they got separated. In such circumstances, alleging that the petitioner failed to maintain the respondents, they filed a maintenance case u/s 125 of Cr.P.C. in MC.No.432 of 2023 on the file of the IV Additional Principal Family Court at Chennai and pending the same, the respondents filed a interim maintenance petition in MP.No.209 of 2024 claiming a sum of Rs.30,000/- towards interim maintenance and Rs.30,000/- towards litigation expenses. After adjudication, the trial Court, vide order dated 24.05.2024, awarded an interim monthly maintenance of Rs.10,000/- in favour of the 1st respondent and Rs.25,000/- in favour of the 2nd respondent and a sum of Rs.5,000/- towards litigation expenses. Aggrieved by the same, the petitioner/husband has come up with the present revision.

3. Learned counsel for the petitioner submitted that, though the respondents themselves have claimed only a sum of Rs.30,000/- towards



interim maintenance, however, the trial court, vide impugned order, awarded a total interim monthly maintenance of Rs.35,000/- in favour of the respondents, which is wholly unsustainable and the same has been awarded by the trial court without considering financial capacity of the petitioner. She further submitted that, the monthly income of the petitioner is only a sum of Rs.30,000/-, using which he has to take care of himself and his age old parents. In such circumstances, the trial court had ordered for payment of Rs.35,000/- towards interim maintenance of the respondents and the same is non acceptable. Further, the 1st respondent is a MBA Graduate and she is gainfully employed and it is the 1st respondent who deserted the petitioner, which facts were not taken into consideration by the trial court, while passing the present impugned order and thereby, the same has to be necessarily be interfered with.

4. This Court gave its careful consideration to the submissions advanced by the learned counsel for the petitioner and perused the materials available on record.

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. 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. 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 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 negated against the wife.

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



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plea on the aforesaid three fronts and, therefore, necessarily the wife is entitled to maintenance u/s. 125 Cr.P.C.

8. However, a perusal of the materials available on record particularly the impugned order reveal that, the respondents filed a maintenance case in MC.No.432 of 2023 and pending the same, they filed a interim maintenance petition in MP.No.209 of 2024 claiming an interim maintenance of Rs.30,000/- and Rs.30,000/- towards litigation expenses and the trial Court, vide order dated 24.05.2024, awarded an interim monthly maintenance of Rs.10,000/- in favour of the 1st respondent and Rs.25,000/- in favour of the 2nd respondent and a sum of Rs.5,000/- towards litigation expenses.

9. In essence, the total interim maintenance ordered by the trial court in favour of the respondents is Rs.35,000/- and the same is over and above the amount which has been sought for by the respondents themselves, however, no reasons have been adduced for arriving at the said finding. When it is the specific case of the husband that he has to take care of his age



old parents as well, in the interest of either parties, this Court is of the considered view that the interim monthly maintenance requires has to be reduced.

10. For the reasons aforesaid, this Court is inclined to modify the interim monthly maintenance awarded by the trial court in favour of the respondents in the following terms :-

(i) The petitioner is directed to pay a sum of Rs.20,000/- as interim monthly maintenance in favour of the 2nd respondent and Rs.10,000/- in favour of the 1st respondent from the date of interim maintenance petition till the disposal of the main petition.

(ii) the petitioner is directed to pay the entire arrears maintenance amount at the rate of Rs.30,000/- as ordered by this Court, less than the amount if any already paid, to the respondents within a period of four weeks from the date of receipt of a copy of this order.

(iii) The petitioner shall continue to pay the above interim maintenance ordered by this Court in favour of the respondents on or before the 5th day of every English Calendar month till the disposal of the main petition.

(iv) The trial court shall dispose of the main case in MC.No.432 of 2023 within a period of three months from the



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date of production of proof of payment of costs and arrears as ordered by this court by the petitioner, after affording opportunity to the parties.

11. With the above direction and modification, this Criminal Revision Case stands disposed of. Consequently, the connected miscellaneous petition is closed.

01.08.2024

skt

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

To

The IV Additional Principal Family Court,
Chennai.

M.DHANDAPANI, J.

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