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CrI.R.C.No.1310 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

CrI.R.C.No.1310 of 2023

Jothi Venkatesh

... Petitioner

Vs.

1.Parameshwari

2.Thirishanthini

(Minor rep. by her next friend guardian
mother Mrs.Parameshwari)

... Respondents

Prayer : Criminal Revision Case filed under Section 397 and 401 Cr.P.C, praying to set aside the order dated 06.04.2023 passed by the Family Court, Namakkal in C.M.P.No.2 of 2022 in C.M.P.No.230 of 2021 in C.M.P.No.53 of 2020 in M.C.No.32 of 2018 to undergo imprisonment of six months or the payment is made.

For Petitioner : Mr.S.Viswanathan
for M/s.Dass and Viswa Associates

For Respondents : Mr.V.Lakshmi Narayanan

ORDER

This Criminal Revision Case is filed against the order of the passed by the Family Court, Namakkal dated 06.04.2023 in C.M.P.No.2 of 2022 in C.M.P.No.230 of 2021 in C.M.P.No.53 of 2020 in M.C.No.32 of 2018.



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2. The petitioner is the husband, the 1st respondent is his wife and the 2nd

respondent is their minor daughter. Since the petitioner refused to take care of the respondents, the respondents filed a maintenance case under Section 125 of Cr.P.C. in M.C.No.32 of 2018 on the file of Family Court, Namakkal, claiming monthly maintenance. After adjudication, the trial court ordered a sum of Rs.3,000/- per month as maintenance to the 1st respondent and Rs.5,000/- per month as maintenance to the 2nd respondent. However, the petitioner not paid the said maintenance to the respondents, thereby the respondents filed a petition u/s 125(3) of Cr.P.C. in C.M.P.No.53 of 2020 in M.C.No.32 of 2018 and the learned Judge by order dated 21.11.2020 remanded the petitioner for 30 days for non-payment of maintenance amount. Even thereafter, the petitioner not complied with the same, thereby the respondent filed another petition in C.M.P.No.230 of 2021 in C.M.P.No.53 of 2020 in M.C.No.32 of 2018 for issuance of warrant for non-payment of arrears amount and the learned Judge by order dated 08.06.2022 again remanded the respondent to judicial custody for 30 days. However, even thereafter, the petitioner not paid the maintenance amount to the respondents, thereby the respondents filed a further petition in C.M.P.No.2 of 2022 in C.M.P.No.230 of 2021 in C.M.P.No.53 of 2020 in M.C.No.32 of 2018 and the same was allowed on 06.04.2023 by sentencing the respondent for a period of six months. Aggrieved by the same, the present



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revision is filed by the petitioner/husband.

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3. The learned counsel appearing for the petitioner submitted that the petitioner who is a physically challenged person is an unemployed and depending on his parents for his livelihood. The 1st respondent is a well qualified person and was working in a college. Despite having sufficient means, the respondents have filed the above cases only in order to harass the petitioner. However, without considering the above aspects, the trial court has ordered maintenance in favour of the respondents and issued warrant as against the petitioner, which is wholly unsustainable. Accordingly, he prays for allowing the revision.

4. Per contra, the learned counsel appearing for the respondents submitted that, the parents of the petitioner are retired government employees and getting a sum of Rs.44,000/- as pension. Besides that, the petitioner is getting a sum of Rs.55,000/- per month as rental income. Though the petitioner is having sufficient means, the petitioner neglected to maintain his wife and child. He further submitted that, despite the orders passed by the trial court and this court, the petitioner not paid the maintenance amount to the respondents. Therefore, the impugned order passed by the trial court sentencing six months imprisonment to the petitioner, does not require any interference. Accordingly,



he prays for dismissal of this revision.

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5. Heard the learned counsel appearing for the parties and perused the materials available on record.

6. There is no dispute about the marriage between the petitioner and the 1st respondent. Admittedly, the 1st respondent is the wife and the 2nd respondent is the daughter of the petitioner. 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.

7. In the case on hand, though the petitioner claims he was an unemployed and depending on his parents for his livelihood, which is disputed by the respondents, by placing relevant materials, which have not been shaken in any manner by the petitioner. Further, it is seen that the petitioner has filed a revision before this Court in Crl.R.C.No.390 of 2020 challenging the order dated 26.12.2019 passed in M.C.No.32 of 2018, which was dismissed by this Court vide order dated 16.12.2022 confirming the order passed in M.C. and



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directed the petitioner to pay the entire arrears amount within a period of one month from the date of receipt of a copy of the order, failing which, directed the learned Magistrate to issue warrant and execute the order in accordance with law. Further, despite the orders passed by this court as well as the trial court, the petitioner has not come forward to pay the maintenance amount to the respondents. Therefore, this Court is not inclined to interfere with the impugned order passed by the trial court.

8. Accordingly, the Criminal Revision Case is dismissed and the order passed by the Family Court, Namakkal in C.M.P.No.2 of 2022 in C.M.P.No.230 of 2021 in C.M.P.No.53 of 2020 in M.C.No.32 of 2018, dated 06.04.2023 is confirmed.

04.04.2024

Index : Yes / No
Speaking order / Non-speaking order
NCC : Yes / No
sp

To
The Family Court, Namakkal.



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M.DHANDAPANI, J.

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