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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

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THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.RC.No.1207 of 2024
and Crl.MP.No.10283 of 2024

S.Srinath

... Petitioner

-Vs-

1. C.B.Janani
2. Minor Vaibav Shri
(Rep. By his next friend/Mother
first respondent)

... Respondents

Prayer: Criminal revision is filed under Sections 397 and 401 of the Criminal Procedure Code, to call for the records of the impugned order dated 27.02.2024 in MC.No.169 of 2021 passed by the learned Principal Family Court Judge, Coimbatore and set aside the same insofar the first respondent is concerned and allow this criminal revision.

For petitioner : Mr.M.R.Jothimanian

ORDER

The Criminal Revision is filed against the impugned order dated 27.02.2024 in MC.No.169 of 2021 passed by the learned Principal Family Court Judge, Coimbatore.

2. The first respondent is the wife and the second respondent is the



son of the revision petitioner. Their marriage was solemnised on 24.02.2019.

Due to misunderstanding between the couples, the first respondent left the matrimonial home along with her child and lived in parental home. Thereafter, the respondent filed a divorce petition in HMOP. No.527/2021 on the ground of cruelty and the petitioner filed a petition for restitution of conjugal rights in HMOP. No.755 of 2021. In the meanwhile, the respondents have filed a maintenance case claiming a sum of Rs.25,000/- and Rs.20,000/- per month towards maintenance. The learned Judge, after hearing both sides, allowed the divorce petition and dismissed the restitution petition and allowed the maintenance case in part by directing the husband and directed to pay maintenance for a sum of Rs.15,000/- per month to the wife and a sum of Rs.5000/- per month to the son and also Rs.75000/- per annum for educational expenses for the son. Challenging the said order passed by the learned Family Court, the petitioner has filed the present Criminal Revision before this Court.

3. The learned counsel for the revision petitioner/husband would submit that the first respondent/wife left the matrimonial home without any valid reason. Hence, she is not entitled to get any maintenance under Section 125 Cr.P.C. The learned Judge ought to have rejected the maintenance case as



against the wife. The learned counsel further submitted that he has no objection for paying maintenance to the second respondent. This Court may set aside the order granting maintenance towards wife.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Since no adverse order is passed against the respondents, the presence of the respondents is dispensed with.

5. The facts of the case are not in dispute. Admittedly, the first respondent is the wife and the second respondent is the child of the petitioner. It is also admitted fact that the first respondent filed a divorce petition and the same was allowed in her favour. The petitioner has filed a restitution petition which was dismissed. In the maintenance case, the learned Judge has allowed in part.

6. When the first respondent was facing cruelty in the matrimonial home, we cannot expect that the first respondent has to live with the petitioner and the cruelty made by the petitioner has been proved before the Family Court and therefore, the learned Judge has granted divorce. Challenging the said order,



the petitioner filed appeal before this Court and the same is pending.

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7. Considering the facts and circumstances of the case, this Court without expressing any opinion, is inclined to confirm the order of maintenance passed by the Family Court. However, the maintenance amount awarded towards wife is subject to the result of the appeal, which is pending before this Court.

8. The revision is dismissed with a direction to the petitioner to continue to pay maintenance to the respondents as awarded by the trial Court without fail and also directed to pay the arrears forthwith. Consequently, the connected Criminal Miscellaneous Petition is also closed.

22.07.2024

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Index : Yes/No

Internet: Yes/No

Speaking Order : Yes/No

To



The Principal Family Judge, Coimbatore.

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M.DHANDAPANI,J.

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