



Crl.RC.No.1338 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.04.2024

CORAM:

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

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and

Crl.MP.No.11065 of 2023

P.Balakrishnan

...Petitioner

Vs.

B.Rukkumani

...Respondent

Criminal Revision case filed under Section 397 r/w 401 of Code of Criminal Procedure to set aside the order dated 13.06.2023 in M.C.No.33 of 2021 on the file of the Family Court, Dharmapuri.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.M.S.Palanisamy

ORDER

This Criminal Revision case has been filed to set aside the order dated 13.06.2023 made in M.C.No.33 of 2021 on the file of the Family Court, Dharmapuri. The learned Judge has ordered maintenance of Rs.5,000/- per month in favour of the respondent/wife and Rs.25,000/- per annum for



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medical and other expenses of the respondent.

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2. The case of the petitioner is that, the marriage between the petitioner/husband and the respondent/wife was solemnized prior to 30 years as per the Hindu Rites and Customs and out of the wedlock, they were blessed with a male child namely Pachiappan and a daughter namely Roopa. Thereafter, due to some matrimonial dispute, they got separated. While so, the respondent filed a maintenance case under Section 125 of Cr.P.C. in MC.No.33 of 2021 on the file of the Family Judge, Dharmapuri, claiming a monthly maintenance of Rs.30,000/- and a sum of Rs.2,00,000/- per annum for house rent, clothing and medical expenses. After adjudication, the trial Court, vide order dated 13.06.2023, awarded a monthly maintenance of Rs.5,000/- to the respondent and also ordered for payment of Rs.25,000/- per annum for medical and other expenses to the respondent. Aggrieved with the same, the petitioner/husband has come up with the present revision.

3. Learned counsel for the petitioner submitted that, the respondent was living an adulterous life with one Chinnasamy and when the same was found by the petitioner in the year 2006, it is the respondent who left the



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matrimonial house along with their daughter and the same is evident from the deposition of the petitioner as well as PW6, the son. Further, the petitioner is unable to walk and he is mentally unsound and is under the care and custody of his son. When such serious allegations were made against the respondent, without considering any of the same, the trial court had ordered for monthly maintenance of Rs.5,000/- in favour of the respondent, which is not sustainable and the respondent is not an eligible person for receiving any maintenance at the hands of the petitioner. Further, when the petitioner and the respondent got separated as early as in the year 2006, the respondent had filed the maintenance case only in the year 2021, after a lapse of 16 years, which is nothing but an attempt to cause mental agony to the petitioner and his family. Accordingly, he prayed for appropriate orders.

4. Learned counsel for the respondent submitted that, the trial court upon careful perusal of the documents placed before it and after taking into consideration the assets and liability and monthly income of the petitioner and also considering the fact that the respondent was able to maintain herself after separation i.e, from 2006 till 2020 and only due to the old age,



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she is unable to take care of herself and her widowed daughter and thereby filed a maintenance case in the year 2021, had passed the present impugned order awarding a monthly maintenance of Rs.5,000/- and Rs.25,000/- per annum for medical and other expenses to the respondent which is already on the lower side and the same does not require any reduction. Accordingly, he prayed for dismissal of this petition.

5. Heard learned counsel on either side and perused the material documents placed on record.

6. There is no dispute about the marriage between the petitioner and the respondent. The respondent is the wife and out of their wedlock, they were blessed with two children. 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.



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7. It is equally not in dispute that, after separation, the son was under the care and custody of the petitioner/husband and the daughter was under the care and custody of the respondent/wife. Though it is claimed by the petitioner that the respondent was leading an adulterous life, however, no documentary evidence has been produced by him either before the lower court or before this Court to substantiate his claim and even if it so, the petitioner ought to have filed a divorce petition before the lower court, which was not done by the petitioner till date. Further, mere delay in filing the maintenance case cannot be a ground to deny maintenance to the respondent and the respondent had maintained herself as long as she could and due to old age as the respondent is unable to take care of herself and her widowed daughter, she filed the above MC seeking maintenance.

8. A careful perusal of the order passed by the court below reveals that the court below has taken into consideration the documentary evidence as also the deposition of the witnesses examined by the parties and had come to the conclusion that only to deny the benefit of maintenance to the



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respondent, certain acts have been perpetrated by the revision petitioner.

When the basis of such a finding is the deposition of the respondent, which has been rightly appreciated by the court below while awarding maintenance, the same does not warrant any interference.

9. Further, it has to be pointed out that it is the duty of the husband to maintain his wife and the revision petitioner herein is duty bound to maintain his wife and child and rightly appreciating the above, maintenance has been awarded by considering the means of the revision petitioner. The maintenance awarded is just and reasonable and the same does not require any interference.

10. For the reasons aforesaid, this Criminal Revision Case stands dismissed. Consequently, the connected miscellaneous petition is closed.

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skt

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

To

The Family Court, Dharmapuri.

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M.DHANDAPANI, J.

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