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C.R.P (PD) No.3060 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P (PD) No.3060 of 2024

&

C.M.P.No.16499 of 2024

G.V.N.S.Siva Prasad

.. Petitioner

VS.

V.Jyostna Devi

..Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 06.02.2021 made in I.A.No.1 of 2019 in O.P.No.2842 of 2019 on the file of III Additional Family Court at Chennai.

For Petitioner	:	Ms.S.Priyadarshini
For Respondent	:	Mr.R.Karthik

ORDER

This Civil Revision Petition challenges the order passed by the III Additional Family Court at Chennai in I.A.No.1 of 2019 in O.P.No.2842 of 2019. O.P.No.2842 of 2019 has been presented by the Civil Revision Petitioner pleading he is entitled for divorce on account of the conduct of the respondent. On being served with the summons, the wife has filed O.P.No.2835 of 2019 seeking for restitution of conjugal rights.

2. The relationship between the parties is not in dispute. The



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petitioner married the respondent on 02.08.2012 at Chennai. From the wedlock, a male child, Master Dakshith, was born on 13.11.2014. The child is aged about 10 years and he is in the custody of the mother. Pleading that the husband is not maintaining herself or the child, the wife took an application under Section 24 of the Hindu Marriage Act, 1955. She demanded a sum of Rs.40,000/- as interim maintenance for her and her son, a sum of Rs.43,500/- as educational expenses for the son and a sum of Rs.25,000/- towards litigation expenses.

3. The learned trial Judge took it up as I.A.No.1 of 2019 and issued notice to the respondent. The respondent filed a counter stating that his gross income for the year 2014-15 was Rs.6,61,837/- and that his income for the year 2019-20 was about Rs.3,40,455/-. The husband conceded that he is working as a "Team Lead" at R.R.Donnelley and that he is not drawing the amounts specified by the petitioner/wife.

4. The learned Judge, after consideration of the facts pleaded before him, did not grant separate maintenance for the wife and the child but cumulatively granted a sum of Rs.25,000/- as interim maintenance to the wife and child and granted Rs.25,000/- towards litigation expenses.

5. Challenging the grant of interim maintenance, the civil revision



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petitioner preferred an appeal in C.M.A.No.1018 of 2022. Finally, on 27.03.2024, a Division Bench of this Court came to the conclusion that the appeal is not maintainable and dismissed the same permitting the husband to prefer a revision. Hence this revision.

6. Heard Ms.S.Priyadarshini for the civil revision petitioner and Mr.R.Karthik for the Caveator.

7. A narration of the aforesaid facts makes it clear that the relationship between the petitioner and respondent is admitted. It is also admitted that when the petition was filed, the husband was working as a “Team Lead” at the well-known institution R.R. Donnelley. The husband did not produce the salary slip before the Court, and all that he had produced before the learned Judge was a statement that his gross income was only Rs.3,40,455/-. That itself creates a serious doubt because his salary for the year 2014-15 is said to be Rs.6,00,000/- and a person who is working, as a Team Lead, would obviously not receive a reduced salary, 6 years later. The learned Judge has correctly appreciated that, since the wife being unemployed and dependent on others, her husband duty bound to maintain her. The learned Judge further took into



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consideration the status of the petitioner and the respondent and concluded that, against the claim of Rs.40,000/- a sum of Rs.25,000/- would be reasonable. This amount of Rs.25,000/- has been granted for both the wife and the minor son, who is today aged about 10 years. It works out to Rs.12,500/- per head.

8. In matters of maintenance, the Court has to consider the status of the parties and the position that they hold in society while fixing the amount. It is not in dispute that the civil revision petitioner is highly educated and the respondent is a graduate. In ***Bharat Hegde Vs. Saroj Hegde*** reported in ***2007 SCC OnLine Del 622***, Delhi High Court had held that while fixing the maintenance, the Court has to fix it at an amount which the husband would have spent on wife, had they continued together in the matrimonial home. I am sure that the learned Judge, while fixing Rs.25,000/- as the amount of interim maintenance, has taken into consideration the fact that the civil revision petitioner is working in a multinational institution and would have spent a sum of Rs.25,000/- on his wife and child had they been living together.

9. The scope of Article 227 in matters of interim maintenance is



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limited. Unless and until the amount that has been fixed is arbitrary or capricious, there is no scope for interference. For a person earning Rs.1 lakh of salary, Rs.25,000/- works out to only 1/4th of his income which I feel is neither arbitrary or capricious.

10. In the light of the above discussion, this civil revision petition is dismissed. The civil revision petitioner is granted eight weeks time to clear the arrears. In case the petitioner does not clear the arrears within the said period, then the respondent/wife will be entitled to move an application to strike off the divorce petition and also the defence in the restitution of conjugal rights petition. Consequently, the connected civil miscellaneous petition is closed. There shall be no order as to costs.

07.08.2024

Index: Yes/No

Neutral Citation: Yes/No

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To

1. III Additional Family Court at Chennai
2. The Section Officer
VR Section
Madras High Court

V. LAKSHMINARAYANAN, J.



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