



WEB COPY



C.R.P.(PD)No.4593 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.4593 of 2024
and C.M.P.No.25685 of 2024

Ashfaq

.. Petitioner

Vs

Shaheen Fathima

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 28.06.2024 made in I.A.No.3 of 2024 in F.C.O.S.No.7 of 2023 on the file of the Family Court at Vellore.

For Petitioner : Mr.R.Sunil Kumar

ORDER



C.R.P.(PD)No.4593 of 2024

WEB COPY

This civil revision petition arises against the order passed by the learned Family Court at Vellore in I.A.No.3 of 2024 in F.C.O.S.No.7 of 2023 dated 28.06.2024.

2. The civil revision petitioner is the husband. He presented F.C.O.S.No.7 of 2023, on the file of the Family Court at Vellore. The petition seeks for divorce on grounds of cruelty.

3. On being served with the summons, the wife took out an application for interim maintenance in I.A.No.3 of 2024. She pleaded that she is entitled to receive a sum of Rs.50,000/- towards monthly maintenance and Rs.25,000/- as litigation expenses. A counter was filed by the civil revision petitioner. The learned Judge came to a conclusion that the respondent would be entitled to Rs.20,000/- for herself and her child every month and ordered a sum of Rs.5,000/- towards litigation expenses.

4. Aggrieved by the same, the civil revision petition is at the instance of the husband.

5. I heard Mr.R.Sunil Kumar for the civil revision petitioner.



C.R.P.(PD)No.4593 of 2024

WEB COPY

6. Mr.R.Sunil Kumar pleads that the husband is assisting his father in a gold covering jewels polishing business and he hardly makes Rs.1,000/- per day and therefore, to call upon him to pay Rs.20,000/- per month is excessive or arbitrary. Further, he states that the learned Judge has called upon the husband to pay Rs.5,000/- month on month towards litigation expenses, which he pleads, is also excessive. Therefore, he seeks for the order to be revised.

7. I have considered the submissions of Mr.R.Sunil Kumar. I have carefully gone through the records.

8. The relationship between the petitioner and the respondent is not in dispute. The petitioner solemnised his wedding with the respondent as per the Muslim rites and customs on 14.02.2022 at Vellore. From the wedlock, a child was born in 2023, who was aged about seven months on the date of filing of the petition. The male child is under the care and custody of the mother.

9. The wife pleaded that her husband had retained all the jewels



C.R.P.(PD)No.4593 of 2024

and house hold articles that had been given to her as Stridhanam at the time of wedding. She pleaded that her parents are already burdened with the loans, which they had taken at the time of marriage, and they are not in a position to spend for himself and her child. Therefore, she pleaded that she is entitled for maintenance. She reserved her right to seek for return of the jewels and other house hold articles, which had been purchased for her use.

10. The husband entered appearance in the said application and filed a counter. He accepted that the relationship and that a child was born to them. He pleaded that the jewels had been returned to the wife and that her application is vexatious. He admitted that he is working in his father's business entity namely, a gold covering polishing unit, in Tiruvannamalai. He took a plea that he is a B.Ed. graduate and he has been in search of a job and since he has not secured one, he is assisting his father in the said business. Neither the parties entered the witness box and tendered oral evidence.

11. The status of the civil revision petitioner is one of a business



C.R.P.(PD)No.4593 of 2024

man. The typed set of papers reveal that he is running a business under the name and style of “AMJ Adham” covering jewels polish shop at No.21A, Asaliyamman Kovil street in Tiruvannamalai. Though Mr.R.Sunil Kumar pleads that it is a street vending unit, a perusal of the record shows that it is a shop being run in the properly constructed area.

12. The Supreme Court held in ***Rajnish v. Neha, (2021) 2 SCC 324*** that it is a sacrosanct duty of a husband to maintain his wife and child. Therefore, the husband cannot shirk away from this responsibility. At the time of fixation of quantum of interim maintenance, a Court should take into consideration the status that is occupied by the parties in the society as well as the expenses that the wife would incur to take care of herself as well as the child. The status of the husband being one of the business man dealing in gold covering jewels, the learned Judge has taken a very conservative view and has fixed Rs.10,000/- per month per individual and has cumulatively granted an amount of Rs.20,000/-. The expense for a new born child would obviously more than the amount that has been fixed by the learned Trial Judge. Yet, being an interim maintenance application, he has followed the rule of thumb and has fixed the quantum. The amount of Rs.300/- per day towards an individual, who



C.R.P.(PD)No.4593 of 2024

are residing in the town of Vellore, cannot be considered excessive or arbitrary. Unless and until this Court comes to a conclusion that the amount is excessive or arbitrary or that the learned Judge has not applied the correct principles of law to the facts, it should not be interfered with in its revisional jurisdiction under Article 227 of the Constitution of India. As I found that the amount is not excessive, since the child is less than a year old, the mother will obviously be incurring a lot of expenses towards the maintenance and upkeep of the child.

13. In so far as the plea of Mr.R.Sunilkumar that the Court has ordered Rs.5,000/- per month towards litigation expenses is concerned, a careful reading shows that the learned Judge has held that Rs.5,000/- as litigation expenses, which is one time payment. The amount of Rs.5,000/- towards litigation expenses is hardly an amount, which is charged by a lawyer in a matter relating to the divorce proceedings. As the wife is not on revision before me, I am not in a position to enhance the said amount. Suffice it to say, it is not a month on month amount. It is one time payment. Even this figure, I find to be abysmally low. Leaving it to the wife to challenge the said amount ordered, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is



closed.

WEB COPY



C.R.P.(PD)No.4593 of 2024

19.11.2024

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

kj

To

The Family Court at Vellore.

V. LAKSHMINARAYANAN,J.



WEB COPY



C.R.P.(PD)No.4593 of 2024

kj

C.R.P.(PD)No.4593 of 2024
and C.M.P.No.25685 of 2024

19.11.2024