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C.R.P. (PD) No.3416 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition (PD) No.3416 of 2024 &
C.M.P.No.18481 of 2024

P.J.Surendar @ Ashwin

.. Petitioner/Respondent/Petitioner

Versus

1. G.Divya

2. Minor Sai Satvik

[Minor is rep. by his mother 1st respondent]

.. Respondents/Petitioner/Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.1 of 2023 in H.M.O.P.No.4642 of 2022 dated 28.03.2024 on the file of the III Additional Principal Family Court, Chennai.

For the Petitioner : Mr.C.Subramanian

ORDER

This Civil Revision Petition arises against the Order passed by the learned III Additional Principal Judge, Family Court, Chennai in I.A.No.1 of



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2023 in H.M.O.P.No.4642 of 2022.

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2. H.M.O.P.No.4642 of 2022 has been presented invoking the provisions of Sections 13[1] [ia] and 13 [ib] of the Hindu Marriage Act. There is no dispute in relationship between the parties. The petitioner and the respondent had married each other as per Hindu Rites and Customs on 10.02.2016 at Chennai. From the wedlock, a boy child was also born to them on 31.01.2017. The child is said to be studying in SBOA Junior College at Anna Nagar.

3. Due to disputes and differences, the parties have separated and the husband as aforesaid had initiated proceedings for divorce. On being served with summons, the wife took out an application seeking interim maintenance in I.A. No.1 of 2023. She sought for Rs.15000/- per month for herself and a like amount for the second petitioner, who is the child. She had also sought for Rs.75,000/- as educational expenses for the child. She would plead that the husband has not given any money towards educational expenses of the child and she had to pledge her jewels in order to educate her child. Pleading financial inability, she took up the petition for maintenance. The respondent is a B.Tech graduate, who is working in



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Cameron. She alleged that he was earning a monthly sum of Rs.60,000/-.

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4. On being served with summons, the Civil Revision Petitioner/husband pleaded that it was the wife who deserted him and she did not join him at the matrimonial home. He would state that the intention of the respondent is to grab money of the civil revision petitioner.

5. Both parties were called upon to file their affidavit of assets and liabilities. The husband has filed an affidavit of assets stating that his monthly salary is Rs.91,781/-. He would however plea that from the salary of Rs.91,781/- he is settling loan of Rs.98,643/-. Considering the status of the petitioner and the respondent, the learned trial Judge fixed the monthly maintenance at Rs.10,000/- for the wife and Rs.10,000/- for the child. He also directed a sum of Rs.75,000/- to be paid towards educational expenses. Against which, the present revision.

6. The scope of revision under Article 227 with respect to interim maintenance is well settled. If the relationship between the parties is not in dispute, then unless and until the amount that is fixed by the Court is excess



or arbitrary or capricious, this Court should not interfere with such an Order.

Informing myself to such position of law, I proceed to go through the impugned Order.

7. As pointed above, the husband is earning about Rs.91,000/- per month. What has been Ordered by the Court is around 1/5th of the salary that he is receiving. In ***Bharat Hegde vs Saroj Hegde, AIR 2007, Del 197***, the Delhi High Court had taken a view that the wife is entitled to be maintained in the same status and standard as she would have been if she had continued to live in the matrimonial home.

8. Applying the said principle to the facts in this case, being an Engineer employed in an Oil and Gas Engineering Company, I am sure, had the wife and child resided with him, the husband would have expended more than Rs.20,000/- per month on them. Converting Rs.10,000/- per month in the city of Madras, works out around approximately Rs.300/- per day. Apart from that the child is studying in a prestigious institution which would have obviously charged more than the said amount. For the mere fact that the husband and wife are separated, the wife need not be in penury. In the light



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of the above discussions, I do not find any merits in this petition.

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9. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet: Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

The III Additional Principal Family Court, Chennai.



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V.LAKSHMINARAYANAN, J.

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