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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2024

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

Crl.RC.No.864 of 2021
and Crl.MP.No.12283 of 2021

Sekar

... Petitioner

-Vs-

1. Nithya
2. Master S.N.Harshan

... Respondents

Prayer: Criminal revision is filed under Sections 397 and 401 of the Criminal Procedure Code, to set aside the order of the learned IV Additional Family Judge, Chennai passed in MC.No.362 of 2018 dated 17.07.2019.

For petitioner : Mr.B.Devakumar
For Respondents : Mr.N.Moorthi

ORDER

The Criminal Revision is filed to quash the order of the learned IV Additional Family Judge, Chennai passed in MC.No.362 of 2018 dated 17.07.2019.



2. The revision petitioner is the husband and the first respondent is his wife and the second respondent is the son of the petitioner and the first respondent. The marriage between the petitioner and the first respondent had taken place on 22.11.2013 at Sri Raja Rajeswari Kalyana Mandapam, Angaputhur, Chennai. Due to difference of opinion, the first respondent left the matrimonial home. The petitioner filed a divorce petition and during the pendency of the same, the first respondent filed a maintenance case claiming a sum of Rs.15,000/- per month to respondents and the learned Judge, after hearing both sides, allowed the petition in part by directing the petitioner to pay a sum of Rs.4,000/- each, per month, to the respondents. Challenging the said order passed by the learned Family Court Judge, the petitioner has filed the present Criminal Revision before this Court.

3. The learned counsel for the petitioner submitted that the petitioner is earning a sum of Rs.5500/- per month. The petitioner has to take care of himself and his old age parents with this meager amount. Before the Family Court, the respondent has stated that the petitioner is working as a Manager in Yamaha Motors Company at Sriperuputhur. Actually, the petitioner is working as book binder on contract basis and the petitioner has studied only 10th



standard. Hence, the order of the Family Court is liable to be set aside. Without considering the entire facts, the Family Court erred in ordering exorbitant maintenance to the respondents, which is unfair. Therefore, the learned counsel prays to allow the present petition.

4. The learned counsel for the respondents submitted that the petitioner has not taken any steps to bring back the respondents in matrimonial home and despite having sufficient means, the petitioner has neglected to maintain his wife and child. The first respondent is not employed and she is depending upon her parents for her livelihood. The petitioner is liable to maintain his wife and child. Hence, the learned counsel prays to dismiss the petition.

5. Heard the learned counsel for the petitioner and the respondents and perused the materials available on record.

6. The marriage between the petitioner and the first respondent is not in dispute and the relationship between them is also not in dispute. The paternity of the child is also not in dispute. On going through the impugned



order, it is seen that the petitioner filed a divorce petition and the respondent filed a petition for conjugal rights. During the pendency of these petitions, the respondent wife filed a maintenance case and the learned Judge has also awarded the maintenance, which is perfectly in order. As a dutiful husband and father, the petitioner has to maintain his wife and child. and the petitioner is liable to pay the maintenance to the respondents.

7. Considering the cost of living prevailing as on date, the maintenance amount awarded by the Family Court is just and reasonable and no interference is required. However, this Court directs the petitioner to pay the maintenance to the respondents as ordered by the Family Court, regularly on or before 7th of every English calender month and to pay the entire arrears of maintenance to the respondents within a period of four weeks from the date of receipt of a copy of this order.

8. With the above directions, this Criminal Revision Case is dismissed. Consequently, connected M.P. Is also closed.

10.04.2024

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Index : Yes/No

Internet: Yes/No

Speaking Order : Yes/No

To

The IV Additional Family Judge, Chennai



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M.DHANDAPANI,J.

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10.04.2014