



Crl.R.C.No.942 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Crl.R.C.No.942 of 2023
and
Crl.M.P.No.7635 of 2023

K.S.Dhayaa Shankar

... Petitioner

Vs.

1.G.S.Vanitha @ Radhika

2.Minor D.V.Hariharan

Rep. by his mother and natural guardian 1st petitioner

... Respondents

Prayer : Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, praying to call for the records in M.C.No.113 of 2012 on the file of the V Additional Principal Judge, Family Court, Chennai and set aside the order dated 23.03.2022.

For Petitioner : Mr.K.Chandra

For Respondents : Mr.K.Selvakumar



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ORDER

This Criminal Revision Case is filed against the order of the V Additional Family Court at Chennai, dated 23.03.2022 made in M.C.No.113 of 2012.

2. The case of the petitioner is that, the marriage of the petitioner/husband and the first respondent/wife was solemnized on 03.09.2009 at Thirumal Thirumana Mandapam, Ambattur, Chennai as per Hindu Rites and Customs and the second respondent/son was born from and out of the wedlock between the petitioner and the first respondent. Due to misunderstanding, the petitioner and the first respondent are living separately. Thereafter, the first respondent filed a petition for dissolution of marriage in H.M.O.P.No.3488 of 2013 on the file of V Additional Family Court, Chennai, in which, the first respondent filed an interlocutory application in I.A.No.3382 of 2017 claiming interim maintenance of Rs.20,000/- per month to the first respondent and Rs.10,000/- to the second respondent and Rs.50,000/- per year towards school fees of the second respondent. The Trial Court, by



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its order dated 11.10.2018 directed the petitioner to pay Rs.10,000/- p.m. to the first respondent and Rs.5,000/- p.m. to the second respondent. Thereafter, the respondents have filed a maintenance case under Section 125 of Cr.P.C. in M.C.No.113 of 2012 on the file of V Additional Family Court at Chennai, claiming a sum of Rs.25,000/- p.m. towards maintenance to the first respondent and a sum of Rs.15,000/- p.m. towards maintenance to the second respondent and Rs.50,000/- per year towards school fees of the second respondent. The Trial Court, by its order dated 23.03.2022 awarded a sum of Rs.10,000/- p.m. each to the respondents. Aggrieved by the same, the present revision is filed by the petitioner/husband.

3. The learned counsel appearing for the petitioner submitted that, at the time of filing I.A., the petitioner was earning a sum of Rs.17,500/-, however, the Trial Court passed an order directing the petitioner to pay a total sum of Rs.15,000/- p.m. to the respondents, which is wholly unsustainable and with great difficulty, the petitioner is paying the same to the respondents. However, as on date, the arrears of maintenance amount is more than Rs.19 lakhs and he is unable to pay the



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arrears in lumpsum. Therefore, he submitted that the petitioner is ready to pay a total sum of Rs.15,000/- p.m. to the respondents instead of Rs.20,000/- p.m. to the respondents and prays for reduction of the arrears amount.

4. The learned counsel appearing for the respondents submitted that, the petitioner is working in a multi-national company and earning a sum of Rs.1 lakh per annum. Initially, the salary of the petitioner was Rs.40,000/- and take home salary was Rs.17,500/-. In order to deprive the rights of the respondents from getting maintenance from the petitioner, the petitioner obtained several loans and reduced the take home salary to Rs.17,500/-. Further, apart from working in a multi-national company, he is receiving rental income from three house owned by him. Therefore, he submitted that the Trial Court has awarded just maintenance to the respondents, which needs no interference. Accordingly, he prays for dismissal of the revision.

5. Heard the learned counsel appearing for the parties and also perused the materials available on record.



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6. There is no dispute about the marriage between the petitioner and the first respondent. The first respondent is the wife and the second respondent is the son of the petitioner. 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.

7. In the case on hand, though the petitioner claims his salary to be only Rs.17,500/-, which is disputed by the respondents, by placing relevant materials, which have not been shaken in any manner by the petitioner. In such circumstances, this Court is of the view that, by considering all the oral and documentary evidence and also considering the standard of living, the Trial Court has awarded just and reasonable maintenance, which cannot be interfered with.



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8. Insofar as the arrears of maintenance amount as on date at Rs.19,60,000/- is concerned, in order strike balance between the parties, this Court is inclined to fix the lumpsum arrears of maintenance amount at Rs.13,00,000/-. Therefore, the petitioner is directed to pay a sum of Rs.13,00,000/- towards arrears of maintenance amount to the respondents, within a period of four (4) weeks from the date of receipt of a copy of this order, failing which, the petitioner is directed to pay the entire arrears of maintenance amount of Rs.19,60,000/- to the respondents. Further, the petitioner is directed to pay the future maintenance amount to the respondents as awarded by the Trial Court on or before the 5th day of every English Calendar month.

9. Accordingly, the Criminal Revision Case is disposed of. Consequently, the connected criminal miscellaneous petition is closed.

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Index : Yes / No
Speaking order / Non-speaking order
NCC : Yes / No
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M.DHANDAPANI, J.

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To

The V Additional Family Court, Chennai.

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