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C.R.P.(PD)No.4488 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.4488 of 2024
and CMP No.25030 of 2024

S.Sivasankara Murthy

Petitioner

Vs

M.Abirami

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the order and decretal order passed in I.A.No.4 of 2023 in OP No.3695 of 2018 on the file of II Additional Principal Family Court, Chennai dated 15.04.2024, directing the revision petitioner to pay Rs.1,02,700/- towards School fee to his child as educational expenditure within 15 days of that order.

For Petitioner : Mr.Charles Kamalesh M.Appaji

ORDER

This civil revision petition arises against the order of the learned II



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Additional Principal Judge, II Additional Principal Family Court, Chennai in

I.A.No.4 of 2023 in O.P.No.3695 of 2018 dated 15.04.2024.

2. The revision petitioner is the husband and the respondent is the wife. They married each other on 15.11.2012 at Omaloor. From the wedlock, a female child was born on 18.09.2013. The child is studying in school.

3. The revision petitioner/husband filed HMOP No.358 of 2015 seeking for divorce. In the said proceedings, the respondent/wife moved an application for a direction to the revision petitioner/husband to pay a sum of Rs.1,02,700/- as School Fees for the child. This application was received as I.A.No.4 of 2023. The revision petitioner/husband filed a counter pleading that he is already paying maintenance and therefore, the present petition, claiming school fees, is not maintainable. He also urged that the wife is a qualified Nurse and therefore, entitled to maintain herself and the child.

4. The revision petitioner/husband states this Court by order dated 01.12.2021 in Crl.O.P.No.22554 of 2019 directed him to pay a sum of Rs.25,000/- regularly to the wife as maintenance until disposal of M.C.No.358



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of 2015 and also directed him to pay 50% of the educational expenses of his daughter. Hence, he wants the application to be dismissed.

5. The learned Trial Judge considered all the facts including the order passed by this Court in CrI.O.P.No.22554 of 2019 dated 01.12.2021 and came to the conclusion that as payment of fees arises annually, the liability of the father cannot be shirked. Consequently, the learned Trial Judge allowed the application. Hence this revision.

6. Heard Mr.Charles Kamalesh M.Appaji for the revision petitioner.

7. Mr.Appaji argues that the revision petitioner/husband has already paid 50% of the amount claimed in I.A.No.4 of 2023 and therefore, to call upon him to pay the amount again is improper. He further points out that as per the order passed by this Court in CrI.O.P.No.22554 of 2019 dated 01.12.2021, his liability is only to pay 50% of the education expenses of the daughter and since the respondent/wife is employed, she has to bear the balance amount.

8. I have carefully considered the submissions and gone through the



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9. The relationship between the parties and the birth of the child is not in dispute. The proceedings in CrI.O.P.No.2254 of 2019 arose out of an order refusing to set aside the *exparte* order of maintenance granted under Section 125 of Criminal Procedure Code. In fact, in that the very order, the learned Judge had directed the parties to work out the remedies in a separate proceedings. This Court did not hold that the husband is not liable to pay the maintenance to the wife and child. In ***Rajnesh vs Neha and another* 2021 2 SCC 324** the Supreme Court has made it clear that it is the sacrosanct duty of a husband to maintain his wife and child.

10. The relationship being admitted, and it is the duty of the husband to make the payments. The fact that he had paid for previous year does not exonerate the liability of the father the fees for subsequent years. In fact, the revision petitioner/father of the child has not let in evidence before the trial Court to show that he has paid 50% of the educational expenses which Mr.Appaji claims that the revision petitioner has already paid. Further more, the civil revision petitioner/husband has not proved before the trial Court that



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the respondent/wife is employed as Nurse in a reputed hospital. In fact, he has remained *exparte* in the said proceedings. The liability of the father to maintain the child, being a girl child, till she is married has been crystalised by the learned Judge it need not be interfered with.

11. The mother has given details of the term fees as well as the expenses required for the child to travel from her residence to the school. On account of the dispute between the parents, the child need not suffer. The revision petitioner/husband is working as Manager in the Agricultural Insurance Company of India Limited at Hyderabad and is earning a handsome salary.

12. Taking the over all situation into consideration, I am not inclined to interfere with the impugned order. The order passed by the learned II Additional Principal Judge in I.A.No.4 of 2023 in OP No.3695 of 2018 dated 15.04.2024 stands confirmed and the Civil Revision Petition is dismissed.

13. Mr.Appaji states that his client has paid 50% of this amount. If that be the situation, then, the Court below, on production of proof for payment of 50% school fees, should give due credit to the same.



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V. LAKSHMINARAYANAN,J.

SR

14. With the above observation, the civil revision petition is dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

11.11.2024

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

sr

To

The Subordinate Judge, Chengam, Tiruvannamalai.

C.R.P.(PD)No.4483 of 2024