



Crl.R.C.No.1652 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Crl.R.C.No.1652 of 2023

and

Crl.M.P.No.15567 of 2023

Rajesh Kannan

... Petitioner

Vs.

1.Chandrakala

2.Sabari Sri

3.Kamala Asana

[Minors 2 and 3 being represented through their
mother and natural guardian R1]

... Respondents

Prayer : Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C,
against the order of maintenance passed in M.C.No.94 of 2019 by the
learned Principal Family Court Judge on 16.06.2023 at Chennai.

For Petitioner : M/s.Raj Genevive Veena

For Respondents : M/s.M.Venkadesh Kumar



CrI.R.C.No.1652 of 2023

WEB COPY

ORDER

This Criminal Revision Case is filed against the order passed in M.C.No.94 of 2019 dated 16.06.2023 on the file of the learned Principal Family Court, Chennai.

2. The petitioner is the husband and the 1st respondent is the wife and their marriage was solemnized on 25.03.2012 at Angala Parameswari Amman Koil, Villar Road, Tanjore as per Hindu rites and customs. Out of their wedlock, two female children were born to them, the respondents 2 and 3 herein. Due to matrimonial dispute, the respondents are living separately at the parental house of the 1st respondent. Thereafter, the respondents filed a maintenance case u/s 125 of Cr.P.C. in M.C.No.94 of 2019 before the learned Principal Family Court at Chennai, seeking monthly maintenance of Rs.20,000/- to the 1st respondent and Rs.15,000/- each to the respondents 2 and 3. After adjudication, the trial court has ordered a sum of Rs.10,000/- each as monthly maintenance in favour of the respondents 2 and 3, however, refused to grant maintenance in favour of the 1st respondent/wife, since she is having independent income, vide impugned order dated 16.06.2023. Challenging the same,



the petitioner/husband has filed the present revision before this court.

3. Learned counsel for the petitioner submitted that the assets and liability of the parties were not discussed much by the trial court. He further submitted that the brother of the petitioner had passed away and thereby, he has to take care of the children of his deceased brother. Therefore, he submitted that directing the petitioner to pay a sum of Rs.10,000/- each as monthly maintenance to the respondents 2 and 3 is wholly unsustainable. Accordingly, he prays for appropriate orders.

4. Learned counsel appearing for the respondents submitted that, after carefully considering the oral and documentary evidence adduced by the parties, the trial court had passed the impugned order directing the petitioner to pay a sum of Rs.10,000/- each as monthly maintenance to the respondents 2 and 3, which is just and reasonable. Accordingly, he prays for dismissal of the revision.



CrI.R.C.No.1652 of 2023

WEB COPY

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

6. There is no dispute about the marriage between the petitioner and the 1st respondent. The 1st respondent is the wife and the respondents 2 and 3 are the daughters of the petitioner and the 1st respondent. 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. There is no quarrel with the fact that the 1st respondent/wife is capable of taking care of herself and thereby, the trial court has dismissed the maintenance case in respect of the 1st respondent/wife. The said finding is not assailed by the petitioner/husband. Therefore, this court confirms the finding of the trial court with regard to the rejection of



CrI.R.C.No.1652 of 2023

maintenance amount in favour of the 1st respondent/wife.

8. A perusal of the entire papers including the impugned order passed by the trial court would show that the respondents 2 and 3/minor daughters are under the care and custody of the 1st respondent/wife from the year 2017. Though it is admitted by the 1st respondent that she is having independent income to take care of herself from her acting profession, however, the petitioner has to contribute for the respondents 2 and 3, since he is also having equivalent responsibility to maintain the children. Further, it is seen from the records that the petitioner is working in abroad and he was earning approximately Rs.50,000/- p.m. Though it is claimed by the petitioner that he is taking care of the children of his deceased brother, however, it is bound and duty of the father to maintain the children. Therefore, this court is of the view that the trial court has rightly ordered a sum of Rs.10,000/- each as monthly maintenance in favour of the respondents 2 and 3, which cannot be said to excessive. Hence, this court is not inclined to interfere with the impugned order passed by the trial court.



Crl.R.C.No.1652 of 2023

WEB COPY

9. In view of the above, this court is inclined to dismiss the revision in the following terms :-

(i) the petitioner is directed to pay the monthly maintenance in respect of the respondents 2 and 3 as ordered by the trial court to the 1st respondent on or before the 10th day of every English Calendar month, without fail;

(ii) the petitioner is also directed to pay the entire arrears of maintenance to the 1st respondent, within a period of four weeks from the date of receipt of a copy of this order.

10. With the above directions, this Criminal Revision Case is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

29.07.2024

Index : Yes / No
Speaking order / Non-speaking order
NCC : Yes / No
sp

To



CrI.R.C.No.1652 of 2023

The Principal Family Court, Chennai.

WEB COPY



WEB COPY



Crl.R.C.No.1652 of 2023

M.DHANDAPANI, J.

sp

Crl.R.C.No.1652 of 2023

29.07.2024