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C.R.P.Nos.4880 & 5054 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.12.2024

Coram

THE HONOURABLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.Nos.4880 & 5054 of 2024

and

C.M.P.No.27413 of 2024

C.R.P.No.4880 of 2024

RAJANATHAN ULAGANATHAN

...Petitioner

Vs.

SHYAMALA GUNASEKARAN

... Respondent

C.R.P.No.5054 of 2024

SHYAMALA GUNASEKARAN

...Petitioner

Vs.

RAJANATHAN ULAGANATHAN

... Respondent

Prayer in C.R.P.No.4880 of 2024: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Order and Decretal Order dated 13.08.2024 in I.A.No. 3 of 2024 in O.P.No. 3720 of 2023 on the file of the VI Additional Family Court, Chennai.

Prayer in C.R.P.No.5054 of 2024: Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow this Civil Revision Petition, thereby enhance the maintenance awarded in the fair and decretal order passed in I.A.No.3 of 2024 in O.P.No.3720 of 2023 dated 13.08.2024, pending on the file of the Hon'ble VI Additional Family Court, Chennai.



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C.R.P.Nos.4880 & 5054 of 2024

Appearance in C.R.P.No.4880 of 2024

For Petitioner : Mr.R.Karunagaran

For Respondent : Ms.B.Poongkhulali

Appearance in C.R.P.No.5054 of 2024

For Petitioner : Ms.B.Poongkhulali

For Respondent : Mr.R.Karunagaran

COMMON ORDER

Both the Civil Revision Petitions arises against the order of the learned VI Additional Family Court, Chennai in I.A.No.3 of 2024 in O.P.No.3720 of 2023, dated 13.08.2024.

2. The relationship between the parties is not in dispute. The petitioner in C.R.P.No.4880 of 2024 shall be treated as the lead case for these petitions. For the sake of convenience, the parties shall be referred to as husband and wife.

3. The husband and wife entered into a matrimony on 29.01.2012. From the wedlock, a child was born on 28.06.2013. In and around October 2022, the parties decided to separate on account of dispute and differences that arose between them.



4. Pleading that she had been treated with cruelty, the wife moved O.P.No.3720 of 2023 before the VI Additional Family Court, Chennai. At the time of filing the petition, both the husband and wife were employed. The husband is Master in Engineering in applied Electronics and the wife is a Master of Technology in IT.

5. The husband and wife had purchased a property for which they were servicing the Housing Loan of Rs.56,000/- per month. They decided to share this amount equally. The wife used to transfer a sum of Rs.28,000/- per month to the account of the husband and from the account of the husband, the Bank used to be paid a sum of Rs.56,000/- per month.

6. The wife pleaded that due to health issues and in order to concentrate on the up-bringing of the child, she resigned her employment. It is a specific plea that she was relieved from the duty on 16.06.2023. Therefore, as she do not have any monthly income, she filed an application for interim maintenance, invoking Section 24 of the Hindu Marriage Act (in short, the Act). She pleaded that a sum of Rs.50,000/- per month be paid for interim maintenance of herself and the child and a sum of Rs.25,000/- towards



litigation expenses. In her affidavit, she pleaded that the husband is working in a multinational corporation and he is generating an income of more than a sum of Rs.1,00,000/- every month. In addition, she pointed out that her mother-in-law owns a property, in which, there are five separate portions. One such portion is being occupied by her husband and his mother, while the other four portions have been let out and from that, her mother-in-law and her husband are getting an additional income.

7. Notice was served in this petition on the husband. He filed a detailed counter affidavit. According to him, the wife left the matrimonial home on her own call. He denied that she was turned-out of the house. He pointed out, on multiple occasions, he had pleaded her to re-join him at the matrimonial home. He stated that the idea of filing the application under Section 24 of the Act is only to extract money from him. He admitted that he is working in a multinational corporation and added that the wife is capable of generating income and does not require any financial support. He pointed out that he is taking care of the educational expenses, medical insurance and has made provisions for future education of the child. Therefore, he sought for dismissal of the petition for interim maintenance.



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8. The learned trial Judge received the affidavit of assets and liabilities from the respective parties. She came to the following conclusions:

(i) That the child be paid of monthly maintenance of Rs.15,000/- in addition to the educational expenses, which the husband would have to bear.

(ii) As the wife has sufficient savings, she is not entitled to maintenance.

(iii) As she is unemployed, she will be entitled to litigation expenses of Rs.20,000/-.

(iv) The maintenance to the child was to commence from April 2024 and to be continued till the disposal of the main petition.

9. Aggrieved by the same, the husband and the wife are on revisions before me. The husband pleads that a sum of Rs.15,000/- per month ordered to the child is excessive and the wife pleads that denial of the maintenance to her is illegal. Since both the matters challenge the same order, I directed the Registry to club both the revisions together and heard finally today.

10. I heard Ms.B.Poongkhulali, for the Civil Revision Petitioner in



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C.R.P.No.5054 of 2024 and Mr.R.Karunagaran for Civil Revision Petitioner in
C.R.P.No.4880 of 2024.

11. I have gone through the records and the impugned order in these revisions.

12. In matters of maintenance, in a recent verdict of the Supreme Court has held that the status of the parties would have to be taken into consideration at the time of determining the maintenance as well as the fixation of the amount. See, ***Dr. Rajiv Verghese Vs. Rosy Chakkramakkil Francis, 2024 SCC Online SC 3367***. The Supreme Court was dealing with an appeal, which has been preferred from an order passed by this Court in C.M.A.No.1539 of 2022 dated 01.12.2022. In that case, the Family Court had granted an interim maintenance of Rs.1,75,000/-. It was modified by this Court in the appeal. It was reduced to a sum of Rs.80,000/-. When the matter came up before the Supreme Court, a Bench of Vikram Nath and Prasanna B. Varale JJ, held that the wife, who is accustomed to a certain standard of living, while in a matrimonial home, should be provided with the same amenities and benefits during the pendency of divorce proceedings.



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13. In other words, the law that has been laid-down is that a wife is entitled to be maintained on the same standard as she was, while she lived with her husband. Having come to the conclusion, the Supreme Court reversed the order of this Court and restored the order of Family Court awarding a sum of Rs.1,75,000/- to the wife as interim maintenance. Keeping this principle in mind and I now approach the present case.

14. At the outset, I should point out that Mr.R.Karunagaran, very fairly stated that the husband does not want to shrug off the responsibility as a father to the minor child. He states that the father will continue to shoulder the educational expenses, present and future of the child. That being put behind, all that remains to be decided with respect to the child is, the amount that has to be paid towards monthly maintenance.

15. I have already prefaced that the parents are highly educated. They are Masters degree holders in their own fields. In fact, the father holds a masters in engineering (Applied Electronics), which is not the specialisation which comes by easily. The child, would have to be maintained in the same



status as if the parents were not litigating. I am sure, if the father, mother and child had been living in one unit, the father would have spent not less than a sum of Rs.15,000/- per month, if not more, on the child. This is because it entails, not only the travel expenses, to and fro, from the school, but also the medical expenses and clothing, apart from entertainment expenses of the child. Therefore, I am not inclined to take a different view that taken by the learned VI Additional Judge, Family Court, with respect to the maintenance of the child.

16. Now, turning to the maintenance of the wife, it is on record that the wife, has been bearing the entire burden of servicing the EMI to the Bank for the Housing Loan since October 2022. There is no dispute, prior to separation, the wife had been transferring a sum of Rs.28,000/- per month to the husband and he, in turn, had pooled his contribution of Rs.28,000/- and was transferring a sum of Rs.56,000/- to the Bank. Unfortunately, the parties have separated. Therefore from the month of October 2022 onwards, the wife has been bearing the entire burden of EMI of Rs.56,000/- per month. She has spent, till this month, a sum of Rs.7,56,000/-.



17. Apart from that, she has specifically pleaded in her affidavit that she has left her employment from 16.06.2023. That is to say, atleast eight months before she filed her application under Section 24 of the Act, she has been unemployed.

18. In terms of Section 24 of the Act, when a wife pleads that she has no independent income, sufficient for maintaining herself and to cover the necessary expenses in the proceeding, it is the duty of the Court to ensure that the husband provides maintenance to the status to which the wife is accustomed. The wife has given the details of her expenses in the affidavit itself.

19. Since the husband is bearing the Educational Expenses as well as a sum of Rs.15,000/- per month, those expenses, would not fall on the shoulder of the wife. She still has to maintain herself, so that she does not fall into vagrancy. In fact, that is the purpose, for which the maintenance is ordered, pending the litigation. The statement of Bank account produced by the husband shows that he is generating a monthly income of Rs.1,38,000/-. I am of the view that if the husband and wife had been residing together, the husband



would have spent not less than 1/3rd of the salary on the wife and child.

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20. At this stage, Mr.R.Karunagaran, invites my attention to a letter that has been issued by the “Nokia Solutions and Network India Private Limited”, to point out that the husband has resigned his employment with effect from 31.10.2024. For the mere fact that the husband is unemployed, does not mean that he does not owe the duty of giving maintenance towards his wife and his child.

21. As I already pointed out the husband is highly educated as his area of expertise is hard to come by. Therefore, it is easy for the husband to secure an employment. In addition, he is also receiving rental income. On the contrary, the wife is residing with her parents. She has not demanded maintenance from the month of June 2023 till April 2024, as she has been able to manage her life with her savings. This does not mean, she should be denied maintenance going forward.

22. Taking the overall circumstances into consideration, I am of the view that the denial of maintenance to the wife in entirety requires interference.



Accordingly, the wife will be entitled to maintenance of Rs.28,000/- per month.

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23. A plea is made by Mr.R.Karunagaran, if the wife secures an employment at a later day, the husband should not be continued to burden with its liability. Ms.B.Poongkhulali, states that in case, the wife secures an employment, she will disclose the same to the Court by filing an affidavit. I feel both the statements require consideration. If that eventuality arises, it is for the Court to take a call whether the husband should continue to pay Rs.28,000/- per month as fixed by this Court or reduce the same accordingly.

24. Mr.R.Karunagaran, stated that though the order of visitation has been passed by this Court, the wife is not honouring the said order in letter and spirit. The trial Court has fixed five hours, from 11 a.m., to 4 p.m., on every Sunday, for the father to spend time with his child. He points out that the mother accompanies the child and does not permit the father to spend more than one hour with the child.

25. Ms.B.Poongkhulali states that the mother accompanies the child only in order to ensure that the child is comfortable and does not create a scene,



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if he is left alone with his father. It is only a teething problem. Once the child is comfortable with the father, I am sure, the presence of the mother would create some obstacles for the father to spend quality time with the child. Therefore, by consent and for a beginning, the father will be entitled to pick-up the child from the residence of the mother at 11 a.m., on every Sunday. He shall be dropped at the residence of the mother by 4 p.m.

26. In the light of the above discussion, C.R.P.No.4880 of 2024 is dismissed. C.R.P.No.5054 of 2024 is allowed. The wife will be entitled to a sum of Rs.28,000/- per month from the month of April 2024 onwards. A period of eight (8) weeks is granted to clear the arrears from April 2024 to December 2024. The liability of Rs.28,000/- per month is not postponed by virtue of the time granted. The husband would have to pay a sum of Rs.28,000/- per month from the month of December 2024 onwards. No costs. Consequently, connected Miscellaneous Petition is closed.

06.12.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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V. LAKSHMINARAYANAN, J.

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To
The VI Additional Family Court,
Chennai.

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06.12.2024