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C.R.P. No. 3747 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

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THE HONOURABLE MR. JUSTICE P.DHANABAL

C.R.P. No. 3747 of 2022
and
C.M.P. No. 19787 of 2022

P.Bharath Kumar ... Petitioner / Respondent / Petitioner
Vs.

G.Kavitha ... Respondent / Petitioner / Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, 1950, to set aside the order and decree dated 21.04.2021 made in I.A. No. 2 of 2021 in H.M.O.P. No. 78 of 2020 by the Additional Subordinate Court, Tindivanam.

For Petitioner : M/s. B.Rathika

For Respondent : Mr. R.Sanjay

ORDER

This Civil Revision Petition has been preferred as against the order dated 21.04.2021 passed in I.A. No. 2 of 2021 in H.M.O.P. No. 78 of 2020 on the file of the Additional Subordinate Court, Tindivanam, wherein, the respondent herein has filed petition for interim maintenance and the Trial



Court was awarded a sum of Rs. 20,000/- per month towards maintenance.

Against which, the present Civil Revision Petition is filed.

2. The case of the petitioner is that the respondent is the wife of the petitioner and their marriage took place on 02.05.2013 and thereafter due to misunderstanding between the parties, the petitioner has filed petition for divorce in H.M.O.P. No. 78 of 2020. During the pendency of the above said main petition, the respondent herein has filed the petition for interim maintenance alleging that the petitioner was addicted for alcohol and suspecting her character and caused cruelty and also failed to maintain her. The respondent unable to maintain herself and thereby, she sought for interim maintenance of a sum of Rs. 20,000/- per month. The Trial Court had awarded a sum of Rs. 20,000/- without any basis. In fact, the respondent without any valid reasons, left from the matrimonial home and she caused cruelty and also neglected and deserted the petitioner, and thereby, he filed the main petition for divorce. In the main petition, she filed an application for interim maintenance alleging that by interim maintenance, she is able to maintain herself. But the Trial Court failed to consider the same and without any basis, awarded a sum of Rs. 20,000/- which is too high. Therefore, the



order passed by the Trial Court is liable to be set aside.

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3. The learned counsel appearing for the petitioner would contend that the petitioner has filed main petition for granting divorce. While pending main petition, the respondent/wife filed two applications. One is for return of articles and another is for interim maintenance. Due to misunderstanding with his previous counsel he did not inform about the stage of the case and withdrawn the main case. Thereafter, the petitioner received the notice from the Court in E.P. Nos. 84 and 86 of 2022 for execution of orders made in I.A. Nos. 1 and 2 of 2021. The Trial Court has passed an exparte order without giving opportunity to the petitioner. The respondent would have objected for the withdrawal of the H.M.O.P. No. 78 of 2020 but in the case, the respondent patiently waited for about 17 months of the passing of order and about 1 year of withdrawal of the said H.M.O.P. has filed execution petition with an intention to harass the petitioner/husband. Therefore, the order passed by the Trial Court is liable to be set aside.

4. The learned counsel appearing for the respondent would contend that the respondent herein has filed an application before the Trial Court for interim maintenance stating that the respondent met with an accident and



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taking treatment in her parents home but the petitioner did not visit the respondent and did not take any action to help her. Since the respondent has no permanent job and no income, she would not be able to maintain herself. The petitioner is liable to maintain the respondent. The Trial Court, after taking into consideration of the cost of living and facts and circumstances of the case, correctly allowed the application and awarded Rs. 20,000/- per month. Therefore, the order passed by the Trial Court is proper and the present Civil Revision Petition is liable to be dismissed.

5. This Court heard both sides and perused the materials available on record.

6. It is an admitted fact that the petitioner and the respondent is the husband and wife and there is no child born to them. It is also an admitted fact that now the respondent is residing separately in her parents house. The petitioner is also filed petition for seeking divorce and thereafter it was withdrawn. During the pendency of the main petition, the respondent filed petition seeking interim maintenance of Rs. 20,000/-. The petitioner herein being the respondent in I.A. has not filed counter. The Trial Court, after



C.R.P. No. 3747 of 2024

considering the facts and circumstances, awarded a sum of Rs. 20,000/- towards maintenance and the same is proper. The awarding of Rs.20,000/- as interim maintenance is reasonable and the Trial Court has passed order taking into consideration of the cost of living and facts and circumstances of the case. Therefore, the order passed by the Trial Court is proper and it does not warrant interference.

7. In view of the aforesaid discussions, this Court is of the opinion that the Civil Revision Petition has no merits and deserves to be dismissed. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

22.07.2024
2/2

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
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To

The Additional Subordinate Court, Tindivanam.



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C.R.P. No. 3747 of 2022

P.DHANABAL, J.,

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C.R.P. No. 3747 of 2022

22.07.2024

2/2