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Crl.R.C.No.1730 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.No.1730 of 2023 and
Crl.M.P.No.16511 of 2023**

V.Subramani

... Petitioner

Vs.

1. Palaniammal

2. Sandhya

... Respondents

PRAYER : Criminal Revision filed under Sections 397 and 401 of the code of Criminal Procedure, to set aside the order dated 31.07.2023 passed in Crl.M.P.No.137 of 2022 in M.C.No.19 of 2017 on the file of the Family Court, Dharmapuri.

For Petitioner : Mr.N.Manoharan

For Respondents : Mr.K.Gandhi Kumar

ORDER

The Criminal Revision Case is filed against the impugned order dated 31.07.2023 passed in Crl.M.P.No.137 of 2022 in M.C.No.19 of 2017 by the learned Family Court, Dharmapuri.

2. The petitioner is the husband. He married the first respondent



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on 26.08.1998. Out of the wedlock, two sons and one daughter were born.

As of now, the first son got married and settled separately. The second son is living with his father / petitioner and daughter is living with the first respondent / wife. Due to disputes and differences, the petitioner and the first respondent separated. However, the respondents filed M.C.No.19 of 2017 seeking maintenance from the petitioner / husband. The Court below, after full fledged trial on 18.12.2017 directed the petitioner / husband to pay a sum of Rs.7,000/- to the first respondent / wife and Rs.3,000/- to the second respondent / daughter as monthly maintenance from the date of petition and Rs.25,000/- towards educational expenses of the second respondent. The Court below further directed the petitioner / husband to pay the arrears of maintenance within a period of two months and continue to pay the maintenance on or before 5th of every succeeding English calendar month. Aggrieved by the said order, the petitioner / husband filed Crl.R.C.No.251 of 2018 before this Court. This Court ordered to pay maintenance of Rs.8,000/- from the date of maintenance petition, i.e., 23.08.2018. Pursuant to the same, the first respondent / wife filed



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Crl.M.P.No.138 of 2018, which is pending. The first respondent also filed Crl.M.P.No.78 of 2020 claiming arrears of maintenance amount.

3. It is the further case of the petitioner that in the meantime, the family elders and village elders convinced both the parties and on 17.03.2021, a compromise Muchalika entered between them wherein the parties have agreed to reside jointly as husband and wife and also agreed to withdraw their respective cases. Thereafter, the first son's marriage was performed. It was alleged by the petitioner / husband that, after the marriage was over, the first respondent has once again left the matrimonial home along with the household articles and jewels. The first respondent deserted the petitioner for a period of five years without any reasonable cause. It is also alleged by the petitioner that, the first respondent is working as a Cook in Government Hostel, Karimangalam and earning a sum of Rs.12,000/- per month and therefore, she is not entitled to claim maintenance from the petitioner. Claiming so, the petitioner filed Crl.M.P.No.137 of 2022 to set aside the order dated 31.07.2023 made in M.C.No.19 of 2017.

4. The learned counsel for the petitioner / husband submitted that



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he is working as a Sanitary Worker and the first respondent was also employed as a Sanitary Worker and now she is working in the Adi-Dravidar and Schedule Tribe Welfare Hostel at Dharmapuri from the year 2017. Therefore, she is an earning member as evident from Exs.P9 to P12 and P.W.4, which facts has been suppressed by her in M.C.No.19 of 2017. The first respondent has voluntarily deserted the petitioner in the year 2015 and she is able to maintain herself for all these years. This itself show that she is capable of earning and maintaining herself and this fact has not been considered by the Court below. He further submitted that the first respondent is not entitled to claim maintenance on the ground that she is a Government employee and earning sufficient amount and also the first respondent is living separately without any sufficient reason and she has refused to live with him. He has heavily relying upon the letter dated 18.12.2016 handover by the first respondent before the Police Station expressing her unwillingness for reunion.

5. The learned counsel appearing for the respondents submitted



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that the first respondent / wife filed written statement in the said Crl.M.P.No.137 of 2022 stating that she was jobless at the time of filing maintenance case. Therefore, the Court below, after full fledged trial, has awarded monthly maintenance of Rs.7,000/- to the first respondent / wife and Rs.3,000/- to the second respondent / daughter and Rs.25,000/- towards educational expenses of the second respondent. Subsequently, the petitioner / husband filed Crl.R.C.No.251 of 2018 before this Court. This Court ordered to pay maintenance of Rs.8,000/- from the date of maintenance petition, i.e., 23.08.2018. However, the petitioner / husband has not paid any amount as per the order of this Court and has paid only Rs.52,000/-. Thereafter, under the guise of arranging the marriage of the first son, the petitioner and her first son approached the first respondent / wife. The parties arranged the marriage of their first son which was also subsequently performed. It is alleged by the first respondent / wife that, during that time, the petitioner husband has fraudulently obtained her signature in bond papers and later utilized the same as if a compromise entered into between the parties. Therefore, submitting with the order of the Court below as well



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as High Court in ordering maintenance is fairly justifiable and that the first respondent also stated that she is not a Government Servant and she is working in a private school for a meager salary of Rs.3,000/- per month in which she is unable to maintain herself and her daughter. Therefore, it is bound and duty of the husband to maintain them.

6. This Court has carefully considered the submissions made by the learned counsel appearing for both sides and perused the materials placed before this Court.

7. It is pertinent to note that there has been lots of twists and turns in the life of the parties herein. The parties got married in the year 1998. Though no specific allegation has been made as to the date of separation by the husband and wife, they both were not living together for a considerable period. Claiming that the husband is working as a Sanitary Worker, the respondents filed maintenance case in M.C.No.19 of 2017 and the Court below after full fledged trial on 18.12.2017 directed the petitioner / husband



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to pay a sum of Rs.7,000/- to the first respondent / wife and Rs.3,000/- to the second respondent / daughter as monthly maintenance from the date of petition and Rs.25,000/- towards educational expenses of the second respondent. Aggrieved by the said order, the petitioner / husband filed Crl.R.C.No.251 of 2018 before this Court and this Court ordered to pay maintenance of Rs.8,000/- from the date of maintenance petition, i.e., 23.08.2018. Pursuant to the same, the first respondent / wife filed Crl.M.P.No.138 of 2018, which is pending. The first respondent also filed Crl.M.P.No.78 of 2020 claiming arrears of maintenance amount which comes to around Rs.7,57,000/-. In the year 2021, for the purpose of performing the marriage of the first son, they both were living together for a brief period based on the compromise Muchalika entered into between the parties in the presence of the village elders and family members on 17.03.2021. Pursuant to the marriage of the first son, the parties separated once again. In the year 2022, the petitioner / husband filed O.P.No.118 of 2022 seeking divorce under Section 13(1)(ia)(b) of Hindu Marriage Act on the ground of adultery and desertion. The first respondent contested the



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petition claiming that the allegation levelled against her were not true and that the petitioner / husband was an alcoholic and the first respondent / wife has categorically stated her unwillingness for reunion. Considering the facts and circumstances, the Family Court, Dharmapuri, granted divorce by order dated 31.07.2023. In the meantime, the petitioner filed Crl.M.P.No.137 of 2022 in M.C.No.19 of 2017 in which the Court below has dismissed the same by confirming the order of M.C, as against which, the present revision has been filed.

8. It is evident that the parties relationship has come under a strain and is irrevocable due to various circumstances. The first respondent / wife has produced documentary evidences to show that she is not gainfully employed and that she is working for a meager salary of Rs.3,000/- per month in a private school, with which she is unable to maintain herself and unmarried daughter. It is also evident that the petitioner / husband has not complied with the order of this Court in directing maintenance of Rs.8,0000/- per month. Moreover, the petitioner is a Sanitary Worker. The



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documents and evidences have been adduced as to the financial stability of the petitioner and therefore, the order of maintenance awarded by the Court below cannot be found fault with. The Court below after considering the facts and circumstances of the case and also the documents adduced before it, had rightly dismissed Crl.M.P.No.137 of 2022 filed by the petitioner / husband and hence, this Court is not inclined to interfere with the order passed by the learned Family Judge, Dharmapuri in Crl.M.P.No.137 of 2022 in M.C.No.19 of 2017.

9. Accordingly, the Criminal Revision Case is dismissed.

Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

The Family Court, Dharmapuri.



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