



C.R.P.No.4669 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4669 of 2024
and C.M.P.No.26108 of 2024

M.Ramanathan .. Petitioner

Versus

N.Priyadarshini .. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed by the VI Additional Family Court Judge, Chennai in I.A.No.45 of 2018 in O.P.No.1577 of 2017 dated 07.08.2019.

For Petitioner : Ms.J.Sundarakanchani

ORDER

This civil revision petition arises against the order passed by the VI Additional Family Court, Chennai in I.A.No.45 of 2018 in O.P.No.1577 of 2017 dated 07.08.2019.



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2. The civil revision petitioner is the husband. He initiated FCOP.No.1577 of 2017 on the file of the VI Additional Family Court, Chennai seeking for divorce invoking Section 13 (1)(1a) and Section 13(1)(1b) of the Hindu Marriage Act.

3. The petitioner married the respondent on 25.04.2012 at Chennai. They set up their matrimonial home in Chennai. From the wedlock, a female child was born on 11.02.2013. This child is now aged about 11 years. Due to disputes and differences, the parties have separated and the husband has sued for divorce.

4. Pending the proceedings, the wife took out an application for grant of interim maintenance in I.A.No.45 of 2018. She pleaded that the child is studying in a school in Chennai and that, she is earning only Rs.20,000/- per month and is unable to meet out all the expenses of her child. Therefore, she sought for Rs.30,000/- as interim maintenance for herself and the child. She also sought Rs.50,000/- for litigation expenses.



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5. This application was resisted by the husband by filing a counter. He pleaded that he is having a market research consulting establishment, which he commenced in August 2018. He pleaded that he is only a freelancer and his average monthly income is about Rs.30,000/-. He stated, he is not owning any immovable property, worth two to three crores, as alleged by the wife. He further pleaded that he has an aged mother to take care of and therefore, the demand for maintenance by the wife should not be considered. He pointed out that the wife is working as a team leader at M/s.Scope International Private Limited at Saligramam in Chennai and drawing a monthly salary of Rs.40,000/-.

6. The learned Trial Judge took the petition for disposal. In order to prove the expenses, incurred for the child, the wife produced Ex.P1 to Ex.P5. The husband, in order to substantiate his lack of income, produced Ex.R1 to Ex.R6. The learned Trial Judge held that as the wife is earning, she is not entitled to maintenance. However, she ordered a sum of Rs.15,000/- per month as interim maintenance for the minor child from 04.09.2018 onwards.



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7. Aggrieved by the same, an appeal was presented to this court in CMA.No.4269 of 2019. This Court had admitted the appeal and directed the husband to deposit 50% of the arrears of maintenance within a period of four weeks. It further directed the husband to deposit Rs.5,000/- per month pending the appeal. Subsequently, due to change in law, the appeal was held not maintainable and the same was dismissed by this Court on 23.09.2024. Liberty was granted to the husband to challenge the order by way of a revision. Hence, this revision.

8. I have heard Ms.J.Sundara Kanchani for the civil revision petitioner.

9. The learned counsel pleads that the wife is earning a handsome salary of Rs.40,000/- as a team leader at “Scope International Private Limited”. She points out that the civil revision petitioner has a widowed mother, whom he has to take care. She pleads that a sum of Rs.15,000/- per month ordered as interim maintenance by the Trial Court is excessive. Hence, she pleads for the revision to be admitted and for the continuation of the interim order granted by this Court earlier.



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10. I have carefully considered the submissions of Ms.Sundara Kanchani.

11. The relationship between the parties is not in dispute. It is also not in dispute that from the wedlock, a female child was born, who is aged about 11 years today. The mother has produced bills to prove that, even six years ago, she was incurring an yearly expenditure of Rs.86,500/-. This was when the child was said to be studying in the first standard.

12. I should point out that the learned Trial Judge had accepted the plea of the husband and has not granted any maintenance for the wife. The Court has only ordered that the husband to pay a sum of Rs.15,000/- for maintenance of the child. The learned Trial Judge has taken into conclusion the fact that the child is studying in a premier institution. It has rejected the arguments of the husband, taking into consideration the standard and life style of the couple. The Judge observed that a child born to such a couple cannot be admitted in a school that does not charge a fee.

13. The plea that the father is taking care of his widowed mother and hence, maintenance should be reduced does not appeal to me. It is the duty



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of a son to maintain his parents and similarly as a father, he has to maintain his offspring. One is not mutually exclusive to the other. If the parties had not approached the court and had continued to live together, I would be surprised if the husband had stated that as he is taking care of his mother, he will not spend out any money towards the school fees and the expenses of the child. The child and the mother are entitled to be maintained in the same status as they would be if the matrimonial relationship had continued. This is the view of the Supreme Court in ***Rajiv Verghese v. Rose Chakkramankil Francis, 2024 SCC OnLine SC 3367.***

14. In any event, even when the child was aged about six years, the mother had been spending Rs.86,000/- per year. After a lapse of five years, it is not going to be the same amount that she is going to be spending for maintenance of the child. The court has only fixed Rs.15,000/- as maintenance for the child. I do not find it to be excessive considering the fact that the father is having his own business under the name and style of “Research Art”, an entity which has been assessed to income tax.

15. Considering the above discussion, I am not inclined to admit this revision. Accordingly, this civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.



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Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

To

The VI Additional Family Court Judge, Chennai



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V.LAKSHMINARAYANAN, J.

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