



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2024

CORAM

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.RC.No.1787 of 2023

Murugesan Chaitanya Sai

... Petitioner

-Vs-

1.S.Sandhya

2. C.Thishan (Minor)

2nd Respondent minor rep. by
natural guardian and mother/1st respondent

... Respondents

Prayer: Criminal revision is filed under Sections 397 and 401 of the Criminal Procedure Code, to set aside the order in Crl.MP.No.6747 of 2022 in M.C.No.28 of 2022 passed by the Judicial Magistrate No.I, Tambaram, Kancheepuram.

For petitioner : Mr.V.Anilkumar
For Respondents : Mr.B.A.Chandrasekar

ORDER

The Criminal Revision is filed to quash the order in Crl.MP.No.6747 of 2022 in M.C.No.28 of 2022 passed by the Judicial Magistrate No.I, Tambaram, Kancheepuram.

2. The revision petitioner is the husband and the first respondent is



his wife and the second respondent is the son of the petitioner and the first respondent. The marriage between the petitioner and the first respondent had taken place on 10.05.2019 at Chrompet. The respondents filed a maintenance case claiming a sum of Rs.50,000/- per month to respondents and the learned Judge, after hearing both sides, allowed the interim maintenance petition and the petitioner was directed to pay a sum of Rs.10,000/- each per month to the respondents and also directed to pay the arrears. Challenging the said order passed by the learned Judicial Magistrate-I, Tambaram, the petitioner has filed the present Criminal Revision before this Court.

3. The learned counsel for the petitioner submitted that the petitioner has left the matrimonial home due to the physical and mental cruelty caused by the first respondent and she was in an affair with her cousin brother. The learned Judge ought to have considered the adultery against the first respondent. Hence, the order of the trial Court is liable to be set aside. Without considering the entire facts, the learned Magistrate has erred in ordering exorbitant maintenance to the respondents, which is unfair. Therefore, the learned counsel prays to allow the present petition.

4. The learned counsel for the respondents submitted that the



petitioner is earning more than Rs.1,00,000/- per month, even then, the petitioner has neglected to maintain her wife and child is not sustainable. The first respondent is not employed and she is depending upon her parents for livelihood. The petitioner is liable to maintain his wife and child.

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

6. The marriage between the petitioner and the first respondent is not in dispute and the relationship between them is also not in dispute. The paternity of the child is also not in dispute. On going through the impugned order, it is seen that though the petitioner made allegation as against his wife that she is in an adulterous relationship with her cousin brother, but he has not proved the same before the trial Court. This Court cannot interfere with the impugned order only for mere allegation as against the first respondent. As a dutiful husband and father, the petitioner has to maintain his wife and child. and the petitioner is liable to pay the maintenance to the respondents.



7. Considering the cost of living prevailing as on date, the maintenance amount awarded by the learned Magistrate is just and reasonable and no interference is required. However, this Court directs the petitioner to pay the maintenance to the respondents as ordered by the learned Magistrate, regularly on or before 7th of every English calendar month and to pay the entire arrears of maintenance to the respondents within a period of four weeks from the date of receipt of a copy of this order and produce the necessary proof before the trial Court. After perusal of the entire proof, the learned Judicial Magistrate shall dispose of the main case within a period of three months from the date of the payment.

8. With the above directions, this Criminal Revision Case is dismissed.

10.04.2024

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Index : Yes/No

Internet: Yes/No

Speaking Order : Yes/No

To

The Judicial Magistrate-I, Tambaram, Kancheepuram.



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M.DHANDAPANI,J.

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