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CrI.R.C.No.1000 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.06.2024

CORAM:
THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

CrI.R.C.No.1000 of 2024

and

CrI.M.P.No.8470 of 2024

Akbar Basha

...Petitioner

Vs.

1. Dhilsath

2. Minor Fazulunisha

...Respondents

(Minor represented by next
friend / Guardian 1st petitioner
Dhilsath)

PRAYER: Criminal Revision case filed under Section 397 r/w Section 401
of Code of Criminal Procedure to set aside the order dated 27.01.2023 made
in M.C.No.7 of 2021 on the file of learned Family Court, Dharmapuri, by
allowing this Criminal Revision Petition.

For Petitioner : Mr.N.Mandharan

For R1 : Party-in-person

For R2 : Represented by R1



Crl.R.C.No.1000 of 2024

ORDER

This Criminal Revision petition is filed against the order dated 27.01.2023 made in M.C.No.7 of 2021 on the file of learned Family Court, Dharmapuri, by allowing this Criminal Revision Petition.

2. The case of the petitioner is that, the marriage between the petitioner / husband and the first respondent / wife was solemnized after the death of the first wife of the petitioner on 03.03.2013. Out of the said wedlock, the second respondent was born . Due to the difference of opinion between the petitioner and the first respondent, the respondents filed a petition u/s.125 Cr.P.C. in M.C.No.07 of 2021 on the file of Family Court, Dharmapuri seeking maintenance in a sum of Rs.25,000/-p.m. to the respondents; Rs.4,000/- p.m. towards house rent; Rs.10,000/- p.a. towards clothing; Rs.1,000/- p.m. towards medical expenses of the second respondent; Rs.20,000/- p.a. towards educational expenses of the second respondent and Rs.40,000/- towards litigation expenses. After adjudication, the trial Court vide order dated 27.01.2023 partly allowed the petition filed by the respondents directing the petitioner to pay a sum of Rs.7,500/- per month towards maintenance to each respondents and also directed the



Crl.R.C.No.1000 of 2024

petitioner to pay a sum of Rs.50,000/- p.a. towards medical and other expenses to each respondents. Challenging, the same, the petitioner is in this Criminal Revision Petition.

3. Learned counsel for the petitioner submits that though the petitioner is a pensioner, the maintenance amount fixed by the trial Court is highly excessive. He further submits that the petitioner is aged about 63 years and he is unable to pay the exorbitant maintenance. Moreso, the maintenance has been fixed without any evidence. Hence, he prayed to allow the present revision petition.

4. The first respondent party-in-person who also represented the second respondent submitted that upon considering all the oral and documentary evidence, the trial Court has fixed the maintenance in favour of the respondents and the same does not warrant any interference of this Court.

5. Heard the learned counsel appearing on either side and perused the



Crl.R.C.No.1000 of 2024

materials placed on record.

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6. There is no dispute about the marriage between the petitioner and the first respondent. The first respondent is the wife and the second respondent is the daughter of the petitioner. It is to be pointed out that it is the duty of the husband to maintain his wife and child and the comforts, which were available to the spouse and child should not be lost due to the friction between the warring parties. Only to that end, Section 125 Cr.P.C. was brought into the statute. In such a backdrop, it becomes the duty of the husband to maintain his wife and child.

7. In the case on hand, though the petitioner claims that he is only getting pension of Rs.14,250/- per month, which is disputed by the respondents, by placing relevant materials, which have not been shaken in any manner by the petitioner. In such circumstances, this Court is of the view that, by considering all the oral and documentary evidence, the Tribunal has awarded just and reasonable compensation, which cannot be interfered with.



Crl.R.C.No.1000 of 2024

WEB COPY

8. Accordingly, the Criminal Revision Case is dismissed and the order made in M.C.No.07 of 2021 dated 27.01.2023 passed by the Family Court, Dharmapuri is confirmed. No costs. Consequently, the connected criminal miscellaneous petition is closed.

12.06.2024

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

To
Family Court, Dharmapuri



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Crl.R.C.No.1000 of 2024

M.DHANDAPANI, J.

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