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Crl.RC No.1854 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1854 of 2024
and Crl.M.P.No.15242 of 2024

Ajeesh Kumar .S

... Petitioner

Vs.

1. Shilaja T.R

2. Shreya Ajeesh (minor)

Rep. by her mother and natural guardian ... Respondents

PRAYER: Criminal Revision Case filed under Sections 438 r/w 442 of the BNSS, to set aside the impugned order dated 16.11.2022 passed in Crl.M.P.No.731 of 2021 in M.C.No.195 of 2021 pending on the file of the III Additional Family Court at Chennai by allowing the present Criminal Revision Petition.

For Petitioner : Mr.Ajaya Francis Inigo Loyola

For Respondents : Mr.Rahul Jaganathan

ORDER

The petition challenges the order passed in Crl.M.P.No.713 of 2021 in M.C.No.195 of 2021 directing the petitioner to pay an interim maintenance of Rs.45,000/- to the respondents i.e., Rs.30,000/- to the 1st respondent and 15,000/- to the 2nd respondent, pending disposal of the



Maintenance Case.

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2. The learned counsel for the petitioner would submit that the order passed is liable to be set aside since the respondents had not filed affidavit of assets and liabilities for deciding the quantum of interim maintenance; that the 1st respondent had married one Harish Menon; and in any case the 1st respondent is leading an adulterous life and therefore, she is not entitled for maintenance.

3. Mr.Rahul Jaganathan, the learned counsel who takes notice for the respondents would *per contra* submit that the petitioner had earlier filed a petition under Section 127 of Cr.P.C., seeking modification of the order of the interim maintenance which was dismissed by the trial Court; that the petitioner challenged the same before this Court in Crl.R.C.Nos.1707 and 1709 of 2023 and this Court by a common order dated 31.01.2024 had dismissed the said revisions and directed the trial Court to decide the main maintenance case within a period of four months; and that the petitioner is due to pay arrears of maintenance to the tune of Rs.9,76,200/-.



4. Heard the learned counsel on either side and perused the materials available on record.

5. Admittedly, the petition filed under Section 127 of Cr.P.C., for alteration of the interim maintenance amount was dismissed by the trial court and challenge to the same before this Court also failed. The main contention of the petitioner is that the first respondent is leading an adulterous life and hence not entitled to maintenance. It is needless to say that if the Family Court holds that the wife is not entitled to maintenance, the maintenance paid to the wife/1st respondent so far can be adjusted to the maintenance payable to the 2nd respondent. Therefore, this Court is not inclined at this stage to interfere with the order originally passed in the Crl.M.P.No.731 of 2021 in M.C.No.195 of 2021 dated 16.11.2022, directing the petitioner to pay interim maintenance.

6. However, the trial Court ought to have decided the main maintenance case, expeditiously. It appears that though there was an earlier direction by this Court on 31.01.2024 in Crl.R.C.Nos.1707 and 1709 of 2023 to the trial Court to decide the maintenance case, within four months, it has not been done so. This Court finds that the trial Court



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has not complied with the direction of this Court in the above order dated 31.01.2024. Therefore, the trial Court shall comply with the earlier direction and decide the maintenance case as expeditiously as possible, in any event not later than two months from the date of receipt of a copy of this order. It is made clear that no further extension of time would be granted to dispose of the maintenance case.

7. With the above direction, this Criminal Revision Case is dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.

04.11.2024

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No.
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To

The III Additional Family Court,
Chennai.



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SUNDER MOHAN, J.

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