



Crl.R.C.No.1110 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.No.1110 of 2024
and Crl.M.P.No.9400 of 2024**

Balasubramaniam

... Petitioner

Vs.

1.T.Hemakumari

2.Minor Yuvashree

3.Minor Pooja Shree

4.Minor Karanraj

Minor respondent Nos.2 to 4 are represented by
guardian mother/first respondent

... Respondents

PRAYER : Criminal Revision Petition filed under Sections 397 and 401 of the code of Criminal Procedure, to set aside the order dated 05.01.2023 made in M.C.No.31 of 2020 by the learned Family Judge, Dharmapuri and set aside the same by allowing the civil revision petition.

For Petitioner : Mr.S.P.Yuvaraj



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ORDER

The Criminal Revision Case is filed against the impugned order dated 05.01.2023 passed in M.C.No.31 of 2020 by the Family Court, Dharmapuri.

2. The case of the petitioner is that the petitioner is the husband of the first respondent and the marriage between the petitioner and the first respondent was solemnized in the year 2005 and they were blessed with three children, who are the respondents 2 to 4 herein. The petitioner and the first respondent lived happily for three years and thereafter, there was a dispute between them and the first respondent has went out from the matrimonial home. While so, the respondents filed a maintenance case in M.C.No.31 of 2020 before the Family Court, Dharmapuri, claiming monthly maintenance of Rs.15,000/- to the first respondent and Rs.5,000/- each per month to the respondents 2 to 4 and a sum of Rs.30,000/- each per annum to the respondents 2 to 4 for clothing, medical and other expenses, however, the trial Court, without considering the aspect that the first respondent was



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not ready to reunion with the petitioner, has ordered monthly maintenance of Rs.5,000/- each to the respondents and a sum of Rs.20,000/- each per annum to the respondents 2 to 4 for their educational expenses from the date of the petition. Challenging the same, the present petition has been filed.

3. The learned counsel appearing for the petitioner submits that the petitioner is working as Electrician in CJ Plaza Hotel and earning a sum of Rs.10,000/- and he has no capacity to pay such huge amount awarded by the trial Court. He further submits that the first respondent is working in private sector and earning a sum of Rs.30,000/- per month. Hence, he prays for appropriate orders.

4. Heard the learned counsel appearing for the petitioner.

5. It appears that the respondents, who are the wife and children of the petitioner, have filed a maintenance case in M.C.No.31 of 2020 before the Family Court, Dharmapuri, seeking monthly maintenance of Rs.15,000/-



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to the first respondent and Rs.5,000/- each per month to the respondents 2 to 4 and a sum of Rs.30,000/- each per annum to the respondents 2 to 4 for clothing, medical and other expenses, since the petitioner is not taking care of his wife and children. After considering the factual aspects, the trial Court has ordered monthly maintenance of Rs.5,000/- each to the respondents and Rs.20,000/- each per annum to the respondents 2 to 4 for their educational expenses from the date of the petition. Though the petitioner claims that the first respondent is working in private sector and earning a sum of Rs.30,000/- per month, he has not produced any evidence to prove the same.

6. The grounds on which maintenance can be rejected to the wife can be only on the ground that wife is able to maintain herself and she has the requisite means to maintain herself and that she is not living in adultery and where the person, who offers to maintain his wife on condition of her living with him and she refuses to live with him, only on such of those grounds, maintenance could be negatived against the wife.

7. In the case on hand, it is not the case of the petitioner/husband



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that his wife has sufficient means to maintain herself by her earnings or that she is living in adultery or that he is ready to maintain her if she comes and lives with him, but that his wife is refusing to unite with him. There is no specific plea on the aforesaid three fronts and, therefore, necessarily, the wife is entitled to maintenance under Section 125 Cr.P.C and appreciating the above in proper perspective, the Court below has granted maintenance. Hence, this Court is not inclined to interfere with the order dated 05.01.2023 passed in M.C.No.31 of 2020 by the learned Family Judge, Dharmapuri.

8. Accordingly, the Criminal Revision Case is dismissed.
Connected miscellaneous petition is closed.

01.07.2024

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To
The Family Court, Dharmapuri.



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M.DHANDAPANI, J.

ssb

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