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CRL.R.C.No.490 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**CRL.R.C.No.490 of 2024
and CrI.M.P.No.4698 of 2024**

T.Felix Kulandairaj

... Petitioner

Vs.

1.F.Suganya

2.Minor Sam David

Represented by her mother/first respondent

... Respondents

PRAYER : Criminal Revision Petition filed under Sections 397 and 401 Cr.P.C, to set aside the order dated 28.12.2022 passed in M.C.No.172 of 2018 by the Additional Principal Family Court, Coimbatore.

For Petitioner : Mr.D.Padmanabhan

For Respondents : Mr.I.Bobhy Partia



CRL.R.C.No.490 of 2024

WEB COPY

ORDER

This Criminal Revision Case is filed to set aside the order dated dated 28.12.2022 passed in M.C.No.172 of 2018 by the Additional Principal Family Court, Coimbatore.

2. The learned counsel appearing for the petitioner submits that the petitioner is the husband of the first respondent and the second respondent is the child of the petitioner. Due to matrimonial dispute, they are living separately and the respondents have filed a maintenance case in M.C.No.172 of 2018 before the Additional Principal Family Court, Coimbatore. He further submits that the petitioner is earning a sum of Rs.12,000/- per month and the respondent is working in a refrigerator sale and service unit and earning a sum of Rs.15,000/- per month. However, the trial Court, without any detailed discussion relating to the assets and liability of the petitioner and the respondent and overlooking the fact that the respondent is earning a sum of Rs.15,000/- per month, has mechanically allowed the petition



CRL.R.C.No.490 of 2024

WEB COPY

directing the petitioner to pay monthly maintenance of Rs.7,000/- to the first respondent and Rs.3,000/- to the second respondent from the date of petition till the date of the order after deducting the amount ordered as interim maintenance for the period concerned in I.A.No.2 of 2019 in I.D.O.P.No.1094 of 2015 and thereafter, directed the petitioner to pay a sum of Rs.10,000/- per month to the first respondent and Rs.3,000/- per month to the second respondent from the date of order and directed the petitioner to pay a further sum of Rs.25,000/- for every academic year from the date of the order to the second respondent towards educational expenses. Hence, this Court may set aside the impugned order passed by the trial Court.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

4. The petitioner claims that he is working in a private Company and earning only a sum of Rs.12,000/- per month and he has to maintain his age old parents, whereas, the respondent is earning a sum of Rs.15,000/- per



CRL.R.C.No.490 of 2024

WEB COPY

month and she has left the matrimonial home without any cause. However, the trial Court, without discussing the case on merits and on the assets and liability of the petitioner, has simply allowed the petition filed by the respondents/wife and child of the petitioner in M.C.No.172 of 2018 seeking monthly maintenance vide impugned order dated 28.12.2022, directing the petitioner to pay the monthly maintenance of Rs.7,000/- to the first respondent and Rs.3,000/- to the second respondent from the date of petition till the date of the order after deducting the amount ordered as interim maintenance for the period concerned in I.A.No.2 of 2019 in I.D.O.P.No.1094 of 2015 and thereafter, the petitioner was directed to pay a sum of Rs.10,000/- per month to the first respondent and Rs.3,000/- per month to the second respondent from the date of order and pay a further sum of Rs.25,000/- for every academic year from the date of the order to the second respondent towards educational expenses. It is the specific case of the petitioner that he is earning only a sum of Rs.12,000/- and he has no other assets, but he has to take care of himself and his age old parents. However, without considering the same, the Court below has passed the



CRL.R.C.No.490 of 2024

impugned order without even any deliberation.

5. Hence, on the sole ground, the impugned order dated 28.12.2022 passed in M.C.No.172 of 2018 by the Additional Principal Family Court, Coimbatore is set aside and the matter is remanded back to the trial Court for fresh consideration. However, the petitioner is directed to deposit the entire arrears amount at the rate of Rs.7,000/- per month to the first respondent and Rs.3,000/- per month to the second respondent within a period of four weeks from the date of receipt of a copy of this order and shall continue to pay the monthly maintenance of Rs.7,000/- to the first respondent and Rs.3,000/- to the second respondent. On deposit of entire arrears amount being made by the petitioner, the trial Court is directed to restore M.C.No.172 of 2018 on file and dispose of the case on merits, after ascertaining the assets and liability of the petitioner and the respondent and pass orders, within a period of five months from the date of deposit of the entire arrears amount.



CRL.R.C.No.490 of 2024

6. Accordingly, the Criminal Revision Case is disposed of.

Connected miscellaneous petition is closed.

26.07.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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WEB COPY



CRL.R.C.No.490 of 2024

M.DHANDAPANI, J.

ssb

To

The Additional Principal Family Court, Coimbatore.

CRL.R.C.No.490 of 2024

26.07.2024