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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

CORAM

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

Crl.RC.No.1930 of 2023
and Crl.MP.No.18042 of 2023

Prasanth

... Petitioner

-Vs-

1. Kaviyashree
2. Minor P.K.Lithwin
Rep. By his mother

... Respondent

Prayer: Criminal revision is filed under Sections 397 and 401 of the Criminal Procedure Code, to call for the records in CMP. No.64 of 2022 dated 05.08.2022 in MC. No.15/2022 on the file of the Family Court, Thiruvallur.

For petitioner : Mr.J.Srinivasa Mohan
For Respondents : Mr.P.Karunakaran

ORDER

The Criminal Revision is filed to quash the order in CMP. No.64 of 2022 dated 05.08.2022 in MC. No.15/2022 on the file of the Family Court, Thiruvallur.

2. The first respondent is the wife and the second respondent is the



son of the revision petitioner. The marriage between the petitioner and the first respondent was solemnised in the year 2018. Out of the wedlock, the second respondent was born. Due to misunderstanding between the couples, they were living separately. Thereafter, the petitioner filed a divorce petition and the first respondent filed a petition for conjugal rights and domestic violence case and the same are pending. In the meanwhile, the respondents have filed a maintenance case claiming a sum of Rs.20,000/- per month to the first respondent and Rs.8000/- to the second respondent. The learned Judge, after hearing both sides, passed an interim maintenance for Rs.10,000/- per month to the first respondent and Rs.8,000/- per month to the second respondent as interim maintenance. Challenging the said order passed by the learned Family Court, the petitioner has filed the present Criminal Revision before this Court.

3. The learned counsel for the revision petitioner/husband would submit that the first respondent/wife left the matrimonial home without any valid reason. The first respondent has never performed her duty as a wife. In order to harass the petitioner, the first respondent filed a maintenance petition. Hence, she is not entitled to get any maintenance under Section 125 Cr.P.C. Further, the first respondent is a Doctor by profession and she is capable for



maintaining herself and the same is set aside. The petitioner is ready to pay the maintenance towards child.

4. The learned counsel for the respondents would submit that despite having sufficient means, the petitioner has refused to maintain his wife and child and is duty bound to maintain them. The amount awarded by the Family Court is just and reasonable. Hence, the learned counsel for the respondent prays to dismiss the Revision case.

5. Heard both sides and perused the materials available on record.

6. Considering the facts and circumstances of the case, the husband has filed a petition for Divorce before the Family Court and the first respondent has filed a restitution petition. During the pendency of the above case, the first respondent/wife has filed a petition under Section 125 Cr.P.C., before the Family Court claiming maintenance. The learned Judge directed to pay maintenance for Rs.10,000/- per month to the first respondent and Rs.8,000/- per month to the second respondent.



7. It is settled law that if the wife is unable to maintain herself, the husband despite having sufficient means and neglect to maintain her, the wife is entitled to get a maintenance from her husband. In the present case, the petitioner has not proved the employment of the wife. Therefore, the petitioner is duty bound to meet their expenses to lead a decent life. However, the petitioner has to prove the employment of the wife before the Family Court.

8. Under these circumstances, since the relationship is not in dispute and the paternity is also not in dispute and considering the present day inflation and educational expenses, the maintenance amount is modified as follows:

(i) The petitioner is directed to pay a sum of Rs.5,000/- (Rupees Five thousand only) per month to the first respondent and to pay a sum of Rs.10,000/- (Rupees Ten thousand only) per month to the second respondent towards maintenance;

(ii) the petitioner shall deposit the entire arrears of maintenance within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents are at liberty to withdraw the same. The petitioner shall continue to pay the maintenance to the respondents on or before 5th of every English calendar month without fail; and



(iii) After perusal of the receipt of the entire arrears, the learned Judge shall dispose the maintenance case, after providing opportunity to the parties, within a period of three months from the date of receipt of a copy of this order.

9. With the above modification, this Criminal Revision Case is partly allowed. Consequently, the connected Criminal Miscellaneous Petition is also closed.

01.08.2024

Index : Yes/No

Internet: Yes/No

Speaking Order : Yes/No

To
The Family Judge, Thiruvallur.



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M.DHANDAPANI,J.

Rli

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