



WEB COPY



CRP.4866/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.12.2024

CORAM

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

**CRP.No.4866 of 2024 &
CMP.No.27248 of 2024**

Mr.N.Sivaram

..

Petitioner

Vs

Mrs.Jeevitha

..

Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 21.10.2023 made in I.A.No.3 of 2023 in H.M.O.P.No.850 of 2022 on the file of the I Additional Family Court, Chennai.

For Petitioner : Mr. Mr.J.Murugamanickam,
Senior counsel for
Mr.M.Selvaraju

ORDER

This Civil Revision Petition is at the instance of the petitioner/husband. He married the respondent/wife on 16.03.2018. From the wedlock, there are no issues. Due to disputes and differences, the parties have separated. On account of the differences, the husband initiated a proceeding for divorce. He pleads the grounds of cruelty and



CRP.4866/2024

desertion. This petition was numbered as HMOP.No.850 of 2022.

WEB COPY

2. Pending this litigation, the wife filed an application for interim maintenance of Rs.2 lakhs along with another application seeking for litigation expenses of Rs.1 lakh and Rs.10,000/- towards travel and accommodation.

3. Her plea was that the husband is a trained commercial pilot, who had undergone his training in Canada. The wife stated that she had completed her education in medicine from Russia. She pleaded that her husband is working as a Pilot in an Airline owned by the Tata Group and as she is not able to maintain herself from the salary that she earns, she sought for the aforesaid amounts. She pointed out that the husband is earning about Rs.4 lakhs a month and is spending lavishly, without giving any amount to her to run the family. She further pleaded that as the wife of the pilot, she is entitled to maintain the same status as she would have been, in case, she lived with him.

4. This application was numbered as I.A.No.3 of 2023.



CRP.4866/2024

5. As a respondent in that application, the husband filed a filed a counter stating as a medical practitioner, the wife is drawing a sum of Rs.82,602/-. He pointed out that she is a Government Servant holding a Gazetted Rank with a fixed income. He added that his income is not fixed and is measured by the number of flying hours in a month and is subject to constant variation. He stated that the very nature of his job is that he has to travel to several destinations and incur expenses. He added that except special allowance, the basic salary and dearness allowance are minimal compared to the job of the wife. He pleaded that his employment is not permanent, but is subject to him clearing the medical board, once in every six months. Therefore, he sought for dismissal of the petition.

6. The learned trial Judge took up this application for enquiry and ordered a sum of Rs.15,000/- to be paid as interim maintenance to the wife from the date of filing of petition till the disposal of O.P.No.850 of 2022.

7. Challenging this order, the husband had preferred an appeal



CRP.4866/2024

in CMA.No.3079 of 2023. Subsequently, by order dated 14.10.2024, the appeal was dismissed following the judgment in the case of ***S.Menaka V. K.S.K.Nepolian Socraties and other cases (Batch) 2024 Live Law (Mad) 126***. Liberty was granted to the husband to file a Revision, if he so desires. Hence, this Civil Revision Petition.

8. I heard Mr.M.Murugamanickam, learned Senior Counsel appearing for Mr.M.Selvaraj for the Revision petitioner.

9. Mr.M.Murugamanickam, invited my attention to the salary slip that has been issued to the wife and husband. He points out that the husband, though he earns a sum of Rs.1,74,910/- p.m., it is subject to variation on account of the duties and the flying hours that he puts in. Whereas, he urges that the wife, as an Assistant Surgeon, is getting a fixed income of Rs.70,657/- from the Government of Tamilnadu. He states that in terms of section 24 of the Hindu Marriage Act, unless and until, wife is incapable of generating any income, she is not entitled to any maintenance. He further submits that the husband is not agitating the correctness of the order passed for travel expenses for the wife in



CRP.4866/2024

I.A.No.2 of 2022.

WEB COPY

10. I have carefully considered the submissions of Mr.M.Murugamanickam, learned counsel for the Revision Petitioner.

11.The Supreme Court in the case of ***Dr.Rajiv Varghese Vs.Rose Chakkramankkil Francis (2024 SCC Online SC 3367)*** had held that the amount of maintenance that the court should fix for the wife, should be on the same standard of living, as she was accustomed to, while living in her matrimonial home. The Supreme Court had set aside an order passed by this Court in CMA.No.1539 of 2022 dated 01.12.2022 which had reduced the maintenance granted to the wife from Rs.1,75,000/- to Rs.80,000/-. The Court held that it is the duty of a Court, dealing with the maintenance application, to take into consideration the salary of the husband and the status occupied by the parties before coming to a conclusion on the quantum.

12. Applying this judgment to the facts of the case, it is clear that the husband is earning close to Rs.1,80,000/- per month. The status



CRP.4866/2024

that the husband is occupying the exalted one of that being a Pilot in a reputed Airline. Though the wife had pleaded that she requires a sum of Rs.2 lakhs for the purpose of maintaining herself, the learned trial Judge did not consider the amount.

13. Considering the status of the parties and the earning capacity of the husband, she has come to a conclusion that a sum of Rs.15,000/- would be more than sufficient for the wife as an interim maintenance. In fact, had the wife continued to stay with the petitioner in the matrimonial home, I am of the view that the husband would have expended more than Rs.15,000/- that has been ordered by the court. The amount fixed is less than 10% of the salary that is generated by the husband. Hence, it cannot be said to be excessive. Therefore, I am not inclined to interfere with the order of the court below. The Civil Revision Petition is dismissed. No costs.

14. Considering the fact that the pleadings are completed, the learned I Addl. Family Court is requested to give priority to this case. I am giving this direction taking into consideration that the wife is



CRP.4866/2024

travelling from Thirunelveli to Chennai to attend hearings in the case.

WEB COPY

15. The learned I Addl. Family Court shall dispose of the HMOP.No.850 of 2022 within a period of nine months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

02.12.2024

msr

Index: yes/no

Internet:yes/no

To

The I Addl. Judge, Family Court,
Chennai



WEB COPY



CRP.4866/2024

V. LAKSHMINARAYANAN, J.

msr

**CRP.No.4866 of 2024 &
CMP.No.27248 of 2024**

02.12.2024