



Crl.R.C.Nos.1869 of 2023 and 498 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.07.2024

CORAM:
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.Nos.1869 of 2023 and 498 of 2024

and

Crl.M.P.No.174491 of 2023

Balamurugan
Kanimozhi

...Petitioner in Crl.R.C.No.1869 of 2023
...Petitioner in Crl.R.C.No.498 of 2024

Vs.

P.Kanimozhi
2023
Balamurugan
2024

...Respondent in Crl.R.C.No.1869 of

...Respondent in Crl.R.C.No.498 of

Prayer in Crl.R.C.No.1869 of 2023: Criminal Revision case has been filed under Section 397 r/w Section 401 of Code of Criminal Procedure against the order dated 10.08.2023 made in M.C.No.33 of 2018 on the file of the Family Court, Dharmapuri.

Prayer in Crl.R.C.No.498 of 2024: Criminal Revision case has been filed under Section 397 r/w Section 401 of Code of Criminal Procedure against the order dated 10.08.2023 made in M.C.No.33 of 2018 on the file of the



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Family Judge, Dharmapuri, Dharmapuri District under Section 125 of

Cr.P.C. set aside the same in so far as the same is against the petitioner and enhance the amount of maintenance.

For Petitioner in
Crl.RC.No.1869 of 2023 : Mr.V.Sakkarapani

For Petitioner in
Crl.RC.No.498 of 2024 : Mr.P.Mani

For Respondent in
Crl.RC.No.1869 of 2023 : Mr.P.Mani

For Respondent in
Crl.RC.No.498 of 2024 : Mr.V.Sakkarapani

COMMON ORDER

Since the issue involved in the present Criminal Revision Cases are one and the same they are grouped together and disposed of by way of this common order.

2. For brevity, the petitioner in Crl.RC.No.1869 of 2023 is hereinafter referred to as husband and the petitioner in Crl.R.C.No.498 of 2024 is hereinafter referred to as wife.



3. It is the case of the prosecution that the marriage was solemnized on 10.02.2016 as per the Hindu rites and customs. Since 2017, the husband and wife were living separately, whileso, the husband filed a petition seeking restitution of conjugal rights in F.C.M.O.P.No.14 of 2019, in which, the wife filed a petition seeking interim maintenance of Rs.50,000/- per month in I.A.No.120 of 2019 and the trial Court vide interim order dated 17.07.2019 granted a sum of Rs.5,000/- as interim maintenance to the wife and also awarded a sum of Rs.6,000/- towards litigation expenses. Seeking to grant maintenance in a sum of Rs.75,000/- per month, the wife filed a petition u/s.125 of Cr.P.C. in M.C.No.33 of 2018 before the trial Court and the same was partly allowed vide order dated 10.08.2023 directing the husband to pay a sum of Rs.10,000/- per month as maintenance and a sum of Rs.25,000/- per annum towards medical and other expenses to the wife. Challenging the same the husband and wife have filed the respective Revision Petitions have been filed.

4. Learned counsel for the husband / petitioner in Crl.R.C.No.1869 of 2023 submits that presently, the husband is only looking after the Grocery



shop and is earning only a sum of Rs.5,000/- per month which is very meagre to meet out his expenses and without considering the said facts, the trial Court directed the husband to pay a sum of Rs.10,000/- per month towards maintenance and a sum of Rs.25,000/- per annum towards medical and other expenses which is *per se* unsustainable. Since the wife deserted the husband, she is not entitled to claim maintenance. Hence, he prayed to allow the petition filed by the husband in Crl.R.C.No.1869 of 2023.

5. Learned Counsel for the wife / petitioner in Crl.R.C.No.498 of 2024 submitted that though the husband is running the grocery shop and also taking online classes to the students earning sufficient money to maintain his wife, the Tribunal awarded only a sum of Rs.10,000/- per month towards maintenance and a sum of Rs.25,000/- per annum towards medical and other expenses to the wife which is very meagre to meet out her expenses. He further submitted that though the husband filed a petition before the trial Court seeking restitution of conjugal rights, however the same was dismissed vide order dated 10.08.2023 on the ground of cruelty, hence it cannot be said that the wife deserted the husband. Therefore, he prayed this



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Court to allow the petition in Crl.R.C.No.498 of 2024 by enhancing the maintenance granted towards the wife.

6. Heard the learned counsel appearing on either side and perused the materials placed on record.

7. There is no dispute about the marriage between the petitioner and the respondent. It is to be pointed out that it is the duty of the husband to maintain his wife. In such a backdrop, it becomes the duty of the husband to maintain his wife.

8. 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 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 negated against the wife.



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9. On a perusal of the order passed by the trial Court reveals that upon considering all the oral and documentary evidence, the impugned order has been passed and as the duty casts upon the husband to maintain his wife, the trial Court has granted maintenance in a sum of Rs.10,000/- per month and a sum of Rs.23,000/- per annum towards other expenses in favour of the wife which is just and reasonable and the same does not warrant any interference.

10. Accordingly, the Criminal Revision Petitions are dismissed confirming the order dated 10.08.2023 passed by the trial Court. Consequently, connected miscellaneous petition is closed.

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Index	: Yes/No
Speaking order	: Yes/No
NCC	: Yes/No



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To
Family Court, Dharmapuri



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M.DHANDAPANI, J.

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