



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRL.OP No. 30676 of 2022 &
Crl.MP. Nos. 18750 of 2022

1 M.SREENIVASAN @ MUPPAVARAPU

...Petitioner

Vs.

1 M.ANITHA

2 BABY.S.NIVEDHA

REP BY MOTHER AND NATURAL GUARDIAN BOTH
ARE RESIDING AT NEW NO.24/14 OLD NO.75/14
SRI MAHALAKSHMI ENCLAVE GROUND FLOOR
GANDHI ROAD CHOOLAIMEDU, CHENNAI - 600094.

...Respondents

PRAYER : This petition has been filed under Section 482 of Cr.P.C, to Set aside the order made in MP.466/2021 in MC.279/2020 on the file of the Learned III Additional Principal Judge Family Court Chennai dated 12.10.2022



For Petitioner : Mr.A.Prakash

For Respondents : Mr.R.Gunasekaran

ORDER

The petitioner herein filed this petition to Set aside the order made in MP.466/2021 in MC.279/2020 on the file of the Learned III Additional Principal Judge Family Court Chennai dated 12.10.2022.

32 The petitioner herein is the first respondent's husband and the second respondent's father.

3. The respondents herein filed the petition in MP. No. 466 of 2021 in M.C No. 279 of 2022 under Section 125(3) of Cr.P.C to direct the respondent/petitioner herein to pay a sum of Rs.49,812/- as interim maintenance to the petitioner till the disposal of the petition. After hearing the submissions on either side, the Trial Court directed the petitioner to pay a sum of Rs.20,000/- and Rs.15,000/- to the first and second respondent respectively and also directed petitioner to pay a sum of Rs. 62,250/- as School fees to the first respondent herein and also bear the educational expenses of minor child for the forthcoming years directly to the school



authorities. Challenging the said order the petitioner filed this petition.

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4. The learned counsel for the petitioner submits that the Trial Court failed to consider the counter affidavit and documents filed by the petitioner while passing the order. Further, the respondent did not adduce any documentary evidence to prove the income of the petitioner without which the Trial Court directed the petitioner to pay the maintenance as such as erroneous. Now, the petitioner is jobless and homeless. In fact, the petitioner the property which was purchased by the petitioner is enjoyed by his wife/first respondent. Further, she is having sufficient source of income besides she residing in the property which was purchased by the petitioner at Choolaimedu. But without considering the above facts, the Trial Court passed the order to pay the maintenance as such is liable to be set aside.

5. By way of reply, the learned counsel for the respondents submit that order passed by the Trial Court is well reasoned one and also the Trial court passed the order after perusing the the documents filed by the parties which needs no interference. Hence, he prayed to dismiss this petition.

6. Both parties along with their respective counsels appeared before this Court.



7. On perusal of the records filed by the petitioner before the Trial Court, which reveals that the the first respondent is having property at Mogappair and also having resort at Kodaikanal with six rooms. Besides, one of the property said to be purchased by the petitioner was in the name of the first respondent. But the same was denied by the first respondent stating that the property in Mogapair and other property was purchased by her father for the welfare of her child and herself. Further, she stated there was a issues with the neighbors in the property situated in Choolaimedu with an extent of 1320 square feet. According to the petitioner, the first respondent receiving Rs.60,000/- as rent and also receiving Rs.40,000/- rent from another property. Those facts were stated by the petitioner in his counter objection before the Trial Court but the same was not discussed by the Trial Court. On considering the asset and liability on either side, is a matter to decide at the time of the passing order of interim maintenance. On perusal of the order passed by the Trial Judge, wherein, she was not taken into account of the asset and liabilities of the first respondent/wife as such is totally erroneous. In fact, wife is having more sources than the husband. Furthermore, Trial judge passed the order mechanically without discussing about the asset and liabilities of wife. Hence, the order passed by the Trial



Court in MP.No. 466 of 2021 in M.C No. 279 of 2020 is liable to set aside.

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8. In the result, this petition is allowed. No Costs. Consequentially, connected miscellaneous petition is closed.

27.03.2024

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To

- 1.The Public Prosecutor,
High Court, Madras.
- 2.The IV Additional Family Court, Chennai.



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T.V.THAMILSELVI, J.

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