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C.R.P. (PD).No.4465 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4465 of 2024
and C.M.P.No.24907 of 2024

K.Gopalakrishnan

.. Petitioner

Vs.

N.Mala @ Rani

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to allow the CRP and to set aside the order dated 04.09.2023 made in I.A.No.1 of 2022 in O.P.No.616 of 2021 on the file of the V Additional Principal Family Court, Chennai.

For Petitioner : Ms.S.Viji

ORDER

This civil revision petition arises against the order of the learned V Additional Principal Family Court at Chennai in I.A.Nos.1 & 2 of 2022 in O.P.No.661 of 2021.

2.The petitioner married the respondent on 19.05.2016. Due to disputes



and differences, the parties have separated. The civil revision petitioner initiated O.P.No.616 of 2021 seeking divorce on the ground of Section 13 (1) (ia) of the Hindu Marriage Act, 1955. On being served with the summons, the respondent / wife filed the aforesaid applications. I.A.No.1 of 2022 sought for interim maintenance of Rs.30,000/- per month and I.A.No.2 of 2022 sought for Rs.30,000/- towards litigation expenses. This revision is confined only towards the monthly maintenance that had been ordered by the Court.

3.The husband is working as a Senior Manager in ALLSEC Technology at Chennai. He is earning a monthly income of Rs.1,11,000/- and his net income is around Rs.97,000/- per month. The wife is working as a Computer Operator in DPI campus at Chennai and is earning about Rs.1,80,000/- per year (i.e.,) Rs.15,000/- per month. The pleading in the application for maintenance is that the husband is duty bound to maintain her.

4.Both the parties filed their affidavit of assets and liabilities. The wife has filed her affidavit of assets and liabilities saying that her monthly income is around Rs.15,000/- as a computer operator. The husband confirmed that he is working in ALLSEC Technology at Chennai as Senior Manager and is



drawing the aforesaid amount.

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5.The learned Judge considering the affidavit, counter and affidavits of assets and liabilities, filed by both the parties, came to a conclusion that a sum of Rs.15,000/- per month payable from 05.09.2022 would be sufficient for the wife to maintain herself. Aggrieved by the same, the husband is on revision.

6.I heard Ms.S.Viji for the civil revision petitioner.

7.Ms.Viji's arguments are two fold. The first one is that the wife is residing in the house which belongs to the husband and therefore, the entire residential expenses is metted out on the account of her occupation. She points out that the wife is working as Computer Operator and is earning a sum of Rs.15,000/- per month and therefore, granting her an order of maintenance is improper.

8.I have carefully considered the submissions of Ms.S.Viji and I have gone through the records.



9.As stated above, there is no dispute in the relationship. Hence, the husband is duty bound to maintain his wife. Fortunately, from the wedlock, there are no children. The plea of Ms.S.Viji is that since the wife is occupying the property belonging to the husband, the liability of the husband should be reduced does not appeal to me. The husband is duty bound to provide a residence for the wife. This is clear from the provisions of the Protection of Women From Domestic Violence Act, 2005. Even if the wife had not been provided by an accommodation by the husband, she is entitled to knock the doors of the Court and she is entitled to for a residence order. The direction of the Parliament is that, it is the duty of the husband to provide a decent accommodation to the wife. Therefore, by providing a roof over his wife's head, does not exonerate the husband from paying him maintenance to the wife.

10.Ms.S.Viji pleads that that the wife is earning a sum of Rs.15,000/- per month and that should be sufficient for her maintenance also does not take the petition far. As held by the Delhi High Court in ***Bharat Hedge Vs. Saroj Hegde, [AIR 2007 Delhi 197]*** which was cited in ***Rajnish Vs. Neha, [2020 SCC Online SC 903]***, it is the duty of the husband to maintain the wife



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in the same status and manner, in which she would have been maintained, had the relationship between the parties continued. In other words, the wife should be provided with same amount that the husband would have expended on her, had the matrimony not hit the rocks.

11.The petitioner is a Senior Manager in ALLSEC Technology at Chennai. As a wife of a Senior Manager, she would have certainly drawn more than Rs.15,000/- from him if they had lived together. In fact, the Court had taken a very conservative view in fixing a sum of Rs.15,000/-. The minimum maintenance that the wife is entitled to is 1/4th of the salary that is earned by the husband. Be that as it may, as the wife has not put the order in revision before me, I need not go into it.

12.As far as, it is stated that the order passed by the learned Trial Judge does not suffer from any infirmities. In any event for the person residing in her husband's home and receiving a sum of Rs.15,000/- as monthly maintenance can neither be considered as excessive or arbitrary.

13.In the light of the above discussion, I do not find any reasons to



interfere with the order passed by the learned V Additional Principal Family Judge, Chennai, in I.A.No.1 of 2022 in O.P.No.616 of 2021.

14.At this stage, Ms.S.Viji, states that trial has commenced in O.P.No.616 of 2021. The learned Judge on confirming that the husband has cleared all the arrears and continues to pay the maintenance fixed by the Court, is requested to expedite the trial. If there is default, the Court should make it clear that the husband is not entitled to prosecute the OP, till the maintenance arrears are cleared.

15.In the result, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

07.11.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

V.LAKSHMINARAYANAN, J.



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The V Additional Principal Family Court, Chennai.

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