



C.R.P.No.4857 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4857 of 2024
and C.M.P.No.27170 of 2024

R.Rajesh

.. Petitioner

Versus

R.Madhavi

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order passed in I.A.No.1 of 2023 in HMOP.No.317 of 2019 dated 25.06.2024 on the file of the Principal Sub Court at Ponneri.

For Petitioner : Mr.G.Shiva Surya

ORDER

This civil revision petition arises against the order of the Principal Sub Court, Ponneri in I.A.No.1 of 2023 in HMOP.No.317 of 2019 dated 25.06.2024.



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2. The civil revision petitioner is the husband. The respondent is the wife. There is no dispute in the relationship between the parties. The petitioner married the respondent on 05.05.2017 at Tirupati in the State of Andhra Pradesh. From the wedlock, a child was born on 07.02.2018. The child is today aged about six years. The child is under the care and custody of the mother. The petitioner at the time of marriage was working in Vel Tech University in Chennai. The wife is a post graduate in Arts and holds a Bachelor's degree in Education. Due to disputes and differences, the parties separated. The wife, along with her child, returned to her parental home at Chandragiri in Andhra Pradesh.

3. The husband moved HMOP.No.317 of 2019 on the file of the learned Sub Court, Ponneri pleading that he is entitled to divorce on the grounds of cruelty.

4. On being served with summons, the wife took out an application for interim maintenance in I.A.No.1 of 2023. She pleaded that she is entitled to Rs.40,000/- per month for herself, Rs.30,000/- per month for the child and Rs.10,000/- towards litigation expenses. She pleaded that she is



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unemployed and is surviving on account of the doles given by her parents and is not in a position to maintain herself or the child.

5. Notice was ordered to the petitioner/husband in the said application.

6. The petitioner filed a counter inter alia contending that the wife's parents are wealthy. He added her father is a retired Government Servant and she is also getting income from the agricultural assets. He pleaded he has no permanent job nor is he earning enough to pay the maintenance. He alleged that the respondent/wife is working as a clerk in the local municipal office at Chandragiri and is drawing more than Rs.20,000/- per month as salary.

7. The learned Trial Judge, on the basis of the affidavit and petition, came to a conclusion that the civil revision petitioner is an able-bodied person, aged about forty years, who is an Engineer by qualification and has work experience. Hence, she directed interim maintenance of Rs.10,000/- per month for the wife and the child. She did not grant any sum towards litigation expenses. Aggrieved by the same, the husband is on revision.



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8. The learned counsel for the petitioner pleads that the husband had lost his employment on account of the fact the wife had initiated M.C.No.7 of 2023 before the Principal Junior Civil Judge at Tirupati and summons were sent to his college address. He invited my attention to his counter affidavit to plead that due to continuous torture, ill treatment, vengeful attitude by his wife and, frequent visits to the court was necessitated. Hence, he could not perform well in his employment and therefore, his employer forced him to resign. When he filed an affidavit in November 2023, he pleaded that he lost his job few months earlier. He pleaded that the wife is not entitled to maintenance. He alleged the entire idea for filing the maintenance petition was to delay the proceedings and to derive sadistic pleasure in seeing that the case is not over. He further pleaded that he has no income to pay maintenance and that his parents are dependent on him. He added that as on today, the petitioner is drawing a sum of Rs.14,800/- and therefore, to call upon him to pay a sum of Rs.10,000/- as maintenance to the wife and child would not be fair.



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9. I have carefully considered the submissions of the learned counsel for the petitioner.

10. The relationship is not in dispute. The birth of the child is also not in dispute. The child is aged about six years. The plea of the husband that the wife is working as an assistant clerk has not been substantiated.

11. Apart from that, the wife has specifically pleaded that she has absolutely no income, but has incurring expenses for herself and the child for food, clothing, medical and educational expenses. She also pointed out that she is residing at Tirupati in Andhra Pradesh and therefore, she is forced to travel from Andhra Pradesh to Ponneri to attend every hearing. She had also pointed out that the husband is doing business in online commodity trading and has also indulging finance business by holding of chits, and is also a real estate broker.

12. Though there is no evidence on either side, the learned Judge has followed the Rule of Thumb and came to a conclusion that since the civil revision petitioner is an Engineer by profession and is an able-bodied



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gentleman, he should be called upon to pay Rs.10,000/- per month to the wife and child. The amount of Rs.10,000/- cannot be said to be excessive or arbitrary. Even if the husband is penniless, it is his duty to maintain his wife and child. The husband never produced any records before the Trial Court in order to substantiate the pleas that have been made by the learned counsel for the petitioner before me.

13. I do not find any reason to interfere in the order, as the amount of Rs.10,000/- works out only to Rs.300/- per day, for two human beings. At best, this amount will sustain them above the poverty line. This amount cannot be utilised for a luxurious life.

14. This civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

02.12.2024

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no



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To

The Principal Sub Court at Ponneri.



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V.LAKSHMINARAYANAN, J.

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