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C.R.P. (PD) .No.4746 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4746 of 2024
and C.M.P.No.26531 of 2024

R.Manikandan

.. Petitioner

Vs.

1.V.Vinothini

2.Minor. Dheeya

.. Respondents

(Minor 2nd respondent represented
by her mother V.Vinothini)

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 05.04.2024 passed in I.A.No.2 of 2023 in O.P.No.4734 of 2021 by the VI Additional Family Court, Chennai and allow this Civil Revision Petition.

For Petitioner : Mr.K.Sathiyabal

ORDER

This civil revision petition challenges the order of the VI Additional Family Court, Chennai, in I.A.No.2 of 2023 in O.P.No.4734 of 2021.



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2.The civil revision petitioner is the husband. For the sake of convenience, the parties will be referred to as husband and wife.

3.O.P.No.4734 of 2021 was filed by wife. She pleaded that she had been treated cruelly by the civil revision petitioner. Therefore, is entitled to divorce on the ground of cruelty. From the wedlock, a child was born to the couple. The child is now studying in School. The husband has entered appearance and has filed a detailed counter.

4.The wife presented I.A.No.2 of 2023 calling upon the husband to pay the School Fees for the Academic Year 2022-2023 of Rs.65,000/-, Rs.40,000/- for the Academic Year 2023-2024 and for the School Fees of the daughter, together with Rs.25,000/- per month as maintenance.

5.She pleaded that the husband is working as a Driver in TIDCO and is earning around Rs.35,000/- per month. She stated that the husband is avoiding his duty towards his child and is not spending even a single rupee towards her maintenance. The wife accepted that she is working as a



Consultant in a Firm under the name and style of 'Policy Bazaar'.

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6. Notice was ordered in the application. The husband has filed his counter. He pleaded that he is not an employee of TIDCO, but he is a Coolie Driver in TIDCO. He stated that he is working as a call driver and is paid per trip. He stated he is not drawing any salary as alleged by wife. Neither parties entered the witness box to substantiate their case.

7. The learned Trial Judge, on the basis of the affidavit and counter, came to a conclusion that the father has to take care of the child and ordered a sum of Rs.10,000/- as monthly maintenance. She further directed the father to pay a sum of Rs.60,200/- towards the school fees for the academic years 2022-2023 and 2023-2024 and to further pay the school fees in the future.

8. Aggrieved by the said order dated 05.04.2024, this civil revision petition is before the Court.

9. I heard Mr.K.Sathiyabal for the civil revision petitioner.



10.Mr.K.Sathiyabal pleads that the husband is drawing only a sum of Rs.35,000/- per month and to call upon him to pay the school fees as well as the monthly maintenance is onerous. He states that the mother is not permitting him to see the child, whereas she has filed a petition for maintenance. In addition, he argues that he has to take care of his aged parents who are suffering from age related issues, including liver problems. Therefore, he pleads that the amount of maintenance fixed by the Court is excessive and requires interference.

11.I have carefully considered the submissions of Mr.K.Sathiyabal.

12.The fact that the mother is working in a company as a consultant is not in dispute. The power to order for maintenance for the wife is under Section 24 of the Hindu Marriage Act. Whereas, under Section 26 of the said Act, the Court is entitled to fix the maintenance for the child also. Applying the principles of statutory interpretation, Courts have come to a conclusion that the wife is entitled to seek maintenance for the child also under Section 24 of the said Act.



13. On account of the disputes between the father and the mother, the child should not suffer. It is not in dispute that the child was born to the civil revision petitioner. If that be the situation, it is the duty of the father to take care of his offspring. The duty as pointed out by the learned Trial Judge, arises not only on account of the statute, but on account of the various judgments referred to, in the impugned order.

14. The bank statement of the husband was perused by the learned Judge. He has come to a factual conclusion that the husband is drawing a sum of Rs.50,000/- per month. Therefore, he rejected the plea of the husband that he is drawing only a sum of Rs.35,000/- per month. The husband has not come with a clean breast before the Court.

15. Apart from that, the wife has produced a certificate to show that she has spent a sum of Rs.60,200/- for educating the child in the Kinder Garden. This amount, too, has to be paid by the husband, as he is the father. The learned Judge has not fixed a fantastically high figure for this Court to interfere in exercise of the power under Article 227 of the Constitution of India. The learned Judge has only ordered payment of 1/5th of the amount



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which the husband is earning as income for the maintenance of the child. For a child studying in Chennai, this amount can neither be said to be excessive nor arbitrary.

16.In the light of the above discussions, I do not find any merits in this revision.

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

28.11.2024

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

To

The VI Additional Family Court,
Chennai.



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V.LAKSHMINARAYANAN, J.

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