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Crl.M.P.No.1584 of 2024 in Crl.RC.No.304 of 2020

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Crl.RC.No.304 of 2020

P.VELMURUGAN,J.

This petition is filed by the husband to modify maintenance order passed by this Court in Crl.RC.No.304 of 2020 dated 25.10.2021.

2. The learned counsel for the petitioner/husband submitted that at the time of passing order in the revision case, this Court had held that except the fact that the wife worked for some time, the husband has not proved that she is having sufficient means to maintain herself whereas, the wife proved that the husband was earning salary of Rs.1,40,000/- and that the wife has to be maintained on par with the husband but, the learned Magistrate has ordered only a sum of Rs.11,000/- each to the wife and child which is very meagre. Therefore, considering the cost of living and the earning capacity of the husband, this Court enhanced the maintenance amount from Rs.11,000/- to Rs.15,000 /- to the wife and from Rs.11,000/- to Rs.20,000/- to the child. The contention of the learned counsel for the



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husband is that, after passing of this order and after leaving the matrimonial home, the wife has got a job and now she is earning a decent salary of about Rs.60,000/- per month. Once the wife is able to get income and she is able to maintain herself, under Section 125 Cr.P.C., the husband need not maintain the wife. Only if the wife is unable to maintain herself, then the husband has to maintain the wife, whereas, now the respondent/wife is getting about Rs.60,000/- as monthly salary. Therefore, considering the change of circumstances, the earlier order passed by this Court dated 25.10.2021 may be set aside. However, the petitioner/husband is ready to pay the maintenance to the son as already directed by this Court. The learned counsel further submitted that the petitioner/husband is also paying the Insurance for both wife and child. Apart from that, all the educational expenses of the child are being paid by the petitioner/husband. The learned counsel also submitted that the respondent/wife is having a sum of Rs.25 lakhs in her Fixed Deposit which would show that the



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respondent/wife is a means of woman. Therefore, the husband is not liable to maintain her.

3. The learned counsel for the respondent/wife submitted that the petitioner/husband has not paid even the arrears of maintenance amount as per the directions of this Court. Subsequent to the order of this Court, they filed appeal, revision and also contempt petition. Further, they also went to Supreme Court and all the orders of this Court have been upheld. The learned counsel further submitted that now the petitioner/husband is earning more than Rs.3 lakhs per month but he is suppressing all his income. Therefore, there is no change of circumstances. Hence, the petition is liable to be dismissed.

4. At this juncture, the learned counsel for the petitioner/husband objected the statement of the learned counsel for the respondent/wife that the petitioner/husband is not earning more than Rs.3 lakhs and she would submit that the petitioner/husband is earning only Rs.1,40,000/- per month.



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5. Heard and perused the materials available on record.

6. Admittedly, the relationship of the parties is not in dispute. The operative portion of the order of this Court made in Crl.RC.No.304 of 2021 is extracted as follows:

"10. Except the admitted fact that the wife has worked for some time, the husband has not proved that she is having sufficient means to maintain herself whereas, the wife has proved that the husband is earning salary of Rs.1,40,000/- p.m. Therefore, considering the earning capacity of the husband and considering the fact that the wife and child are not having means to maintain themselves, the revision filed by the husband is liable to be dismissed.

11. It is pertinent to refer to the recent decision of the Hon'ble Supreme Court in which, it has been held that the state of the wife has to be maintained on par with the husband. Though the wife is capable of earning, the learned Magistrate has only ordered a sum of Rs.11,000/- each which is very meagre. Even assuming that the wife is working and getting salary of about Rs.20,000/- per month, considering the cost of living and the earning capacity of



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the husband, this Court is inclined to enhance the maintenance ordered by the learned Magistrate. Accordingly, the maintenance of Rs.11,000/- awarded to the wife is enhanced to Rs.15,000/- per month and the maintenance of Rs.11,000/- awarded to the child is enhanced to Rs.20,000/- per month.

12. The husband is directed to pay a sum of Rs.15,000/- as monthly maintenance to the wife with effect from 01.07.2018 and to pay sum of Rs.20,000/- towards monthly maintenance to the child from the date of filing of maintenance petition besides, the husband is also directed to bear the educational expenses of the child provided that the wife produces all the fees receipts and other proof for the educational expenses. Further, the husband shall pay the arrears of maintenance within a period of two months from the date of receipt of copy of this order.

13. With the above modification, the Criminal Revision case filed by the husband is dismissed and the Criminal Revision Case filed by the wife and child is partly allowed. Consequently, connected Miscellaneous Petitions are closed."



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7. The husband has filed the present petition to modify the earlier order of this Court in respect of maintenance to the wife alone, on the ground of change of circumstances that the wife is having a sum of Rs.25 lakhs in her fixed deposit and she is also working and getting salary of about Rs.60,000/- per month whereas, according to the learned counsel for the respondent/wife, the petitioner/husband is getting salary of Rs.3 lakhs per month.

8. Though the learned counsel for the petitioner/husband submitted that the petitioner/husband is not earning more than Rs.3 lakhs and he is getting only Rs.1,40,000/-, she has not examined the employer and proved the same. However, the admitted facts is that the petitioner/husband is in a good job and getting salary of about Rs.1,40,000/-. Even assuming that the wife is working and getting salary of about Rs.60,000/- per month, as per the various decisions of the Hon'ble Supreme Court, the wife has to be maintained on the status on par with the husband. Therefore, this Court is



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not inclined to modify the earlier order of this Court.

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9. Accordingly, this Criminal Miscellaneous Petition is dismissed.

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Index : Yes / No

Speaking Order : Yes / No

Neutral Case Citation : Yes/No

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