



Crl.R.C.No.1630 of 2022
and Crl.M.P.No.19518 of 2022

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M. NIRMAL KUMAR, J.

Today, the matter is listed under the caption “For Being Mentioned” at the instance of the learned counsel for petitioner.

2.It is submitted that in the penultimate line of paragraph 5 of the order dated 07.08.2024, it was wrongly mentioned as 'Rs.7,000/-' instead of 'Rs.12,000/-'.

3.Accordingly, the penultimate line of paragraph 5 of the order dated 07.08.2024 replaced as follows:

“5. petitioner to pay Rs.12,000/- as maintenance for the second respondent. This ...”

4.The Registry is directed to carry out the correction and issue fresh copy of the order dated 07.08.2024.

5. The issue is clarified, accordingly.

05.02.2025

rsi



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

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Senthilkumar

... Petitioner

Versus

1. Manonmani

2. Minor Sriram

Represented by the first respondent
mother / natural guardian

... Respondents

PRAYER: Criminal Revision Case has been filed under Sections 397 and 401 of Cr.P.C, praying to set aside the order dated 17.11.2022 made in M.C.No.03 of 2015 on the file of the Judicial Magistrate Court, Dharapuram by allowing this Criminal Revision Petition.

For Petitioner : Mr.M.Guruprasad
For Respondents : Mr.Manoharan

ORDER

The present Criminal Revision Petition has been filed against the order dated 17.11.2022 passed by the learned Judicial Magistrate, Dharapuram, in



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M.C. No. 3 of 2015, thereby directing the father / petitioner herein to pay a sum of Rs.12,000/- towards maintenance to his son / second respondent herein.

2. The contention of the petitioner is that the respondents 1 and 2 are his estranged wife and son. It is stated that his marriage with the first respondent was solemnized on 25.03.2007. Out of the said wedlock, the second respondent was born to them on 23.12.2009. The relationship between the petitioner and the first respondent was not cordial from the beginning. At one point of time, the first respondent left the matrimonial home and filed a petition in H.M.O.P. No. 31 of 2011 before the Sub Court, Dharapuram, seeking divorce. Pending the same, she filed M.C.No.3 of 2015, claiming Rs.8,000/- for herself and Rs.7,000/-for her child. The Trial Court finding that the first respondent is employed dismissed the claim for maintenance for the first respondent. However, the trial court granted maintenance of Rs.12,000/- over and above the sum of Rs.7,000/- sought for by the petitioner as maintenance. It is also submitted that during the pendency of the maintenance petition interim maintenance was ordered directing the petitioner to pay a sum of Rs.5,000/- which he is paying till the



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date without default. Now forcing the petitioner to pay a sum of Rs.12,000/- as maintenance for the second respondent is onerous one and he is unable to comply with order. It is stated that his monthly income is only a sum of Rs.13,000/- and therefore directing him to pay Rs.12,000/- as maintenance is excessive.

3. The petitioner has examined witness during the maintenance proceedings, wherein, in the year 2015, the petitioner was getting income as a Partners in a firm and it was evidenced from the bank statement. Now, it is stated that the petitioner is employed as a driver with lesser income. Hence, he has filed the present petition.

4. The respondents submitted that though the trial court recorded the same, it was observed that the petitioner failed to produce any documents to that effect. Therefore, by placing reliance on the bank statement filed during the year 2015 it fixed the maintenance amount at Rs.12,000/- is proper. The learned counsel for the first respondent also submitted that at the time of filing the maintenance application, she was not employed and only in the year 2021, she got employment which was also recorded by the trial court. Further it is submitted that in the year 2015 the second respondent was



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studying third standard. The maintenance amount sought for was Rs.7,000/-.

Now he is studying 9th standard and school fees also increased. Considering all these aspects, the maintenance amount for the second respondent has been fixed. It is further submitted that the first respondent produced school fee receipt from the 2015 to 2018 to prove the increase in the school fees. Further by referring to paragraph 15 of the impugned order it is submitted that the petitioner is a partner in two finance companies namely Sri Velavan Finance and Sri Balaji Auto Finance and is earning more than Rs.50,000/- and also he is in possession of 5 cents lands in Mulanur to Sanarapalayam road which is worth Rs.40,00,000/-. The bank statement of the petitioner also produced, which reveal huge transaction from which his average monthly income can be worked out at Rs.2,05,538/-. The trial Court had considered the evidence and documents produced by the petitioner and passed the order of maintenance as against the second respondent alone. Further it is submitted that the first respondent earlier filed the petition for restitution of conjugal rights in HMOP.No. 8 of 2015. The petitioner/husband filed the petition in HMOP.No.31/2011 seeking for divorce. The restitution of conjugal rights petition was allowed on 24.09.2016 while the petition for divorce was dismissed. Thereafter, the



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petitioner has not joined the respondent to perform the matrimonial obligations. Hence, a petition in HMOP. No. 22 of 2015 was filed seeking divorce and divorce was granted on 08.11.2019. The petitioner is the father of second respondent and he is duty bound to maintain his son. The first respondent is now employed and earning and takes care of the second respondent. But, the duty of the petitioner to maintain the second respondent who is now studying 9th standard and pay school fees duty in cast on him. The petitioner is paying Rs.5,000/- as interim maintenance and taking note of the cost of living and the enhancement of the school fees, the trial court rightly fixed the monthly maintenance for the second respondent at Rs.12,000/-. The first respondent is taking steps for recovery of the maintenance amount which is so far not paid. Further it is submitted that the impugned order has been passed in detail discussing the entire evidence both oral and documentary. Hence, the respondents strongly opposed this petition.

5. It is seen that the petitioner is a business man and a Partner in two firms in the name of Sri Velavan Finance and Sri Balaji Auto Finance. It is further seen that after filing the maintenance case he has withdrawn from the



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the business. The bank statement produced by the respondents disclose that he is having regular transaction whereby he is earning several lakhs of rupees till the year 2015. The trial Court taking note of the same has passed the order on 17.11.2022. However, the petitioner claims that he is no longer a partner and he is not having any income. However, the petitioner has not produced any bank statement contrary to the statement produced by the first respondent. The Trial Court has come to a conclusion that the petitioner is having a monthly income of Rs.2,05,538/- and there is no contrary evidence produced by the petitioner. At the time of filing the petition in the year 2015 the second respondent was studying third Standard and his fees was less and the maintenance case was finally decided only in the year 2022 during which period second respondent was pursuing ninth standard and his fees increased. Though the petitioner claims that he is working as a Driver no proof produced to substantiate the same. Considering all these aspects the Trial Court dismissed the maintenance amount for the first respondent since she is employed. and directed the petitioner to pay Rs.7,000/- as maintenance for the second respondent. This Court finds no reason to interfere with the order passed by the Trial Court.



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6. In view of the same, this Criminal Revision Case is dismissed.

Consequently, connected miscellaneous petition is closed.

07.08.2024

Index : Yes/No

Speaking order / Non-speaking order

Neutral citation : Yes/No

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To

1. The Judicial Magistrate Court,
Dharapuram

2. The Public Prosecutor,
High Court, Madras.



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