



WEB COPY



C.R.P. No.4672 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P. No.4672 of 2024
& CMP No.26143 of 2024

S.G.Krishnamoorthy

Petitioner

Vs

R.Durga

Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in Crl.R.C. No.13 of 2024 dated 23.04.2024 on the file of the I Additional District and Sessions Judge, Coimbatore modifying the order passed in CMP No.6489 of 2023 in DVA No.194 of 2022 dated 16.11.2023 on the file of the Special Judicial Magistrate to deal with Domestic Violence Cases Coimbatore by allowing the Civil Revision Petition.

For Petitioner : Mr.B.Kumarasamy

ORDER

This Civil Revision Petition challenges the order of the learned I Additional District and Sessions Judge, Coimbatore in Crl.R.C.No.13 of 2024 dated 23.04.2024, in partly modifying the order of the Special Court for Domestic Violence Act cases in CMP No.6489 of 2023 in DVA No.194 of 2022 dated 16.11.2023.



C.R.P. No.4672 of 2024

2.The relation between the parties is not in dispute. The civil revision petitioner is the husband. He married the respondent on 10.07.2019. From the wedlock, a child was born on 19.12.2020. Thereafter, due to disputes and differences, the parties have separated. The wife has initiated HMOP No.1689 of 2022 on the file of the learned Principal Family Court at Coimbatore. This is the petition seeking for divorce. In addition, the wife has also filed a petition for maintenance in MC No.211 of 2022 before the very same Court.

3.Not wanting to be left out of the litigation game, the husband has initiated two other proceedings in O.S.No.55 of 2022, seeking for permanent injunction restraining the wife from taking away his movable articles, kept in the bank locker and GWOP No.1211 of 2022 seeking custody. Prior to these proceedings, the wife had initiated DVA No.194 of 2022 invoking Section 12 seeking for several reliefs under Sections 18(a), (b), (e), (f) and Sections 19(f), 20(1)(d) and claiming compensation under Section 22 of Protection of Women from Domestic Violence Act .

4.Pending the DVC proceedings, she took out a petition seeking for interim montly maintenance for Rs.1,10,000/-. She pleaded that she is not able to maintain herself and her child and therefore, sought for the said amount. After



C.R.P. No.4672 of 2024

an enquiry, the learned Special Court for DVA cases, Coimbatore, allowed the petition to an extent of Rs.1,00,000/-.

5. Aggrieved by the said amount, the husband preferred an appeal to the 1st Additional District Court, invoking seeking Section 29 of Protection of Women from Domestic Violence Act. The learned I Additional District and Sessions Judge at Coimbatore, partly allowed the same. He dismissed the maintenance petition, insofar as the wife is concerned and granted Rs.50,000/- for the child. Aggrieved by the same, the husband is on revision.

6. Heard, Mr.B.Kumarasamy, for the civil revision petitioner.

7. Mr.B.Kumarasamy, pleads that the entire dispute arose on account of the fact that the respondent wife had taken away his properties and had gone to her parental home. In addition, he points out that a sum of Rs.60,00,000/- which he had given to the wife, had been taken away by her and had been kept in locker in M/s.Sakthi Financial Services. In addition, the wife has also taken the original Sale Deed of the landed property belonging to the husband, his original passport, as well as his U.S. Social Security Card, allegedly for the purpose of applying for a passport of their only daughter. He states that the wife is an



C.R.P. No.4672 of 2024

engineering graduate and she is working and is earning Rs.90,000/- per month as salary. Hence, he seeks the order to be revised.

8.It is not in dispute that the petitioner is very successfully employed and also had lot of exposure while working in the United States of America. The learned I Additional District Judge has confirmed the fact, from the affidavit of assets and liabilities filed by the husband, that he is earning a sum of Rs.2,48,000/- per month. At the time of fixation of maintenance, the Court should take into consideration, the status of the parties and the amount that the husband would have spent on the wife and child, had they been continued in the matrimonial home. In ***Dr.Rajiv Verghese vs. Rose Francis*** reported in **2024 SCC Online SC 3367**, the Supreme Court held that the wife and child, who are accustomed to a certain standard of living in the matrimonial home are entitled to enjoy the same amenities of life during the pendency of matrimonial proceedings. If that be the position of law, when the husband is earning a sum of Rs.2,48,000/-, per month, the learned I Additional District and Sessions Judge was justified in fixing 1/5th of the salary of the husband as maintenance for the child. She has totally rejected the plea of the wife seeking for maintenance. As the wife is not on revision before me, I am not concerned with that portion of the order. Suffice it to say the amount of Rs.50,000/-, considering the income of the



C.R.P. No.4672 of 2024

husband, cannot be treated to be excessive or arbitrary.

WEB COPY

9.In the light of the above discussion, this civil revision petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

22.11.2024

Index : Yes/No

Neutral Citation : Yes/No

Neutral Citation : Yes/No

Speaking/Non-Speaking Order

ssr

To

1.The I Additional District and Sessions Judge, Coimbatore.

2.The Special Judicial Magistrate to deal with Domestic Violence Cases,
Coimbatore.



WEB COPY



C.R.P. No.4672 of 2024

V. LAKSHMINARAYANAN, J.

SSR

C.R.P. No.4672 of 2024
& CMP No.26143 of 2024

22.11.2024