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CRL.R.C.No.475 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**CRL.R.C.No.475 of 2024
and CrI.M.P.No.4535 of 2024**

M.Kumar

... Petitioner

Vs.

1.J.Sudha

2.Minor Rittanya

Represented by her mother/first respondent

... Respondents

PRAYER : Criminal Revision Petition filed under Sections 397 and 401 Cr.P.C, to set aside the order dated 11.04.2023 passed in M.C.No.09 of 2020 by the Family Court, Dharmapuri.

For Petitioner : Mr.B.Balavijayan

For Respondent : Mr.Jeenath Begum
Legal Aid Counsel



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ORDER

This Criminal Revision Case is filed to set aside the order dated 11.04.2023 passed in M.C.No.09 of 2020 by the Family Court, Dharmapuri.

2. The learned counsel appearing for the petitioner submits that the petitioner is the husband of the first respondent and the second respondent is the child of the petitioner. The marriage between the petitioner and the first respondent was solemnized in the year 2015. For few months only, they were living happily and thereafter, the first respondent left the matrimonial home and she filed a maintenance case in M.C.No.09 of 2020 before the Family Court, Dharmapuri, claiming maintenance and other expenses and the trial Court, without considering the financial position of the petitioner, has ordered monthly maintenance of Rs.5,000/- to each of the respondents and Rs.25,000/- each per annum to the educational expenses of the second respondent and other expenses of the respondents from the date of the petition (i.e.,) 28.02.2020. Challenging the same, the present petition has been filed.



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3. The learned counsel appearing for the petitioner submits that the first respondent is working in a College and earning sufficient amount and holds several properties, however, the trial Court, without considering the above factual aspects, has ordered monthly maintenance and the other expenses which is not sustainable one.

4. Heard the learned counsel appearing for the petitioner and the Legal Aid Counsel appearing for the respondents.

5. It appears that the respondents, who are the wife and child of the petitioner, have filed a maintenance case in M.C.No.09 of 2020, seeking maintenance of Rs.20,000/- for food and other essentials, Rs.10,000/- for clothing and transport expenses, Rs.1,000/- for note books, Rs.2,000/- for medical expenses, Rs.10,000/- for house rent and Rs.50,000/- per annum for educational expenses of the second respondent, Rs.50,000/- for the loan obtained by the first respondent on interest for the school admission of the



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second respondent and Rs.20,000/- for litigation expenses of the respondents. After considering the financial position of the petitioner, the trial Court has ordered monthly maintenance of Rs.5,000/- to each of the respondents and Rs.25,000/- each per annum to the educational expenses of the second respondent and other expenses of the respondents from the date of the petition (i.e.,) 28.02.2020. Though the petitioner claims that the first respondent is working in the College and earning sufficient amount, he has not produced any evidence to prove the same.

6. The grounds on which maintenance can be rejected to the wife can be only on the ground that wife is able to maintain herself and she has the requisite means to maintain herself and that she is not living in adultery and where the person, who offers to maintain his wife on condition of her living with him and she refuses to live with him, only on such of those grounds, maintenance could be negatived against the wife.



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7. In the case on hand, it is not the case of the petitioner/husband that his wife has sufficient means to maintain herself by her earnings or that she is living in adultery or that he is ready to maintain her if she comes and lives with him, but that his wife is refusing to unite with him. There is no specific plea on the aforesaid three fronts and, therefore, necessarily, the wife is entitled to maintenance under Section 125 Cr.P.C and appreciating the above in proper perspective, the Court below has granted maintenance. Hence, this Court is not inclined to interfere with the order dated 11.04.2023 passed in M.C.No.09 of 2020 by the Family Court, Dharmapuri.

8. Accordingly, the Criminal Revision Case is dismissed.
Connected miscellaneous petition is closed.

26.07.2024

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

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M.DHANDAPANI, J.



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To
The Family Court, Dharmapuri.

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