

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 31.07.2024

CORAM

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**Crl.RC.No.811 of 2024
and Crl.MP.No.7384 of 2024

P.Vijay Alex Joseph

... Petitioner

-Vs-

M.Antony Mary Steffina

... Respondent

Prayer: Criminal revision is filed under Sections 397 and 401 of the Criminal Procedure Code, to set aside the order dated 13.07.2023 in MC.No.353 of 2021 passed by the learned III Additional Principal Family Court, Chennai.

For petitioner : Mr.K.Kannan
For Respondents : Mrs.Manjula Charan

ORDER

The Criminal Revision is filed to quash the order dated 13.07.2023 in MC.No.353 of 2021 passed by the learned III Additional Principal Family Court, Chennai.

2. The respondent is the wife of the revision petitioner. Their marriage was solemnized on 07.02.2013 at Chennai as per Christian Rites and Customs.



Out of the wedlock, they have no issues. Due to misunderstanding between the couples, the respondent left the matrimonial home and living in her parental home and subsequently filed a maintenance case claiming a sum of Rs.1,00,000/- per month as the husband is an marine engineer and earning 1,45,000/- at the time of filing the petition. The learned Judge, after hearing both sides, allowed the petition in part and the petitioner was directed to pay a sum of Rs.50,000/- per month to the respondent. Challenging the said order passed by the learned Family Court Judge, the petitioner/husband has filed the present Criminal Revision before this Court.

3. The learned counsel for the petitioner submitted that the respondent left the matrimonial home and deserted the petitioner and denied to rejoin with him without any valid reason. The respondent filed a divorce case on the ground of cruelty which was allowed on the same day. Further, the respondent is MBA Graduate and at present, she is working in Standard Chartered Bank in Chennai and earning sufficient amount to maintain herself. It is settled legal proposition that the deserting wife is not entitled to get maintenance under Section 125 of Cr.P.C. Before the Family Court, the respondent has suppressed her employment. Hence, she is not entitled to get maintenance from the petitioner



and the maintenance amount awarded by the trial Court is highly excessive and the same is liable to be quashed.

4. The learned counsel for the respondent submitted that the she is not denied her employment and she is getting very meagre amount as salary. The respondent did not claim any maintenance from the petitioner for the last nine years. The respondent is working in Standard Chartered Bank only for two years and she has given her resignation on 02.05.2024 and the organisation has relived the respondent only on 31.07.2024. The respondent has not suppressed any fact before the Family Court and at present, the petitioner is earning more than two lakhs. The amount awarded by the Family Court is just and reasonable and the same does not warrant any interference.

5. Heard the learned counsel for the petitioner and the respondent.
Perused the materials available on record.

6. Considering the facts and circumstances of the case, the wife has filed a petition for Divorce on the ground of cruelty before the Family Court and the same was allowed. Thereafter, the wife filed a maintenance case and the



same was allowed in her favour. The petitioner has proved that the respondent is working in a Standard Chartered Bank and earning sufficient money to maintain herself. It is settled law that if the wife is unable to maintain herself, the husband despite having sufficient means and neglect to maintain her, the wife is entitled to get a maintenance from her husband. In the present case, the petitioner has proved the employment of the wife. The respondent has also admitted her employment. At present, the respondent has resigned her job and relieved from service only on 31.07.2024.

7. On perusal of the records, it is seen that the respondent wife has deliberately suppressed her employment and obtained order in her favour. Before the Family Court, she has deposed that she is going to relive on 30.04.2023. However, the order passed by the Family Court is only on 13.07.2023. Even after three months, she has not disclosed her continuous employment. Thereby, the Family Court has passed award. In view of the suppression made by the respondent, this Court is inclined to modify the maintenance awarded by the Family Court.

8. This Court directs the petitioner to pay a sum of Rs.25,000/-



(Rupees Twenty Five thousand only) per month to the respondent towards maintenance on or before 5th of every English calendar month without fail.

9. With the above modification, this Criminal Revision Case is partly allowed. Consequently, the connected Criminal Miscellaneous Petition is also closed.

10.04.2024

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Index : Yes/No

Internet: Yes/No

Speaking Order : Yes/No

To

The Additional Family Court, Chennai.



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M.DHANDAPANI,J.

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