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CrI.R.C.No.2085 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.R.C.No.2085 of 2023

And

CrI.M.P.No.19143 of 2023

Aanaippan

... Petitioner

Vs.

Selvi

... Respondent

Prayer:

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, seeking to set aside the order dated 03.11.2023 made in C.M.P.No.3863 of 2023 in M.C.No.19 of 2015 on the file of the learned Judicial Magistrate No.II, Attur and set aside the same by allowing the criminal revision petition.

For Petitioner : Mr.S.P.Yuaraj

For Respondent : NRN

ORDER

The criminal revision case has been filed seeking to set aside the order dated 03.11.2023 passed in C.M.P.No.3863 of 2023 in M.C.No.19 of 2015 by the Judicial Magistrate No.II, Attur.



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2.The facts of the case is that the petitioner is the husband and the respondent is the wife. Their marriage was solemnized on 09.09.1992 and out of the wedlock, they were blessed with a female child. There was a matrimonial dispute between them and the respondent and her daughter filed maintenance case under Section 125 of Cr.P.C. in M.C.No.19 of 2015 before the learned Judicial Magistrate No.II, Attur seeking maintenance and the said case was partly allowed and the petitioner was directed to pay a sum of Rs.6,500/- per month (Rs.5,000/- to the respondent and Rs.1,500/- to their daughter) towards maintenance from the date of the petition. Aggrieved by the same, the petitioner filed C.R.P.No.37 of 2023 before the learned II Additional District Judge, Salem. In the meanwhile, the respondent filed C.M.P.No.3863 of 2023 in M.C.No.19 of 2015 before the Judicial Magistrate No.II, Attur seeking direction to the petitioner to pay the arrears in maintenance and the said petition was allowed. Challenging the same, the present revision has been filed.

3.The learned counsel for the petitioner submitted that as against the maintenance ordered by the Court below, the petitioner filed civil revision petition before the lower Appellate Court and the



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same is pending, whileso, directing the petitioner to pay the arrears in maintenance amount is not sustainable one.

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4.Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5.The grounds on which maintenance can be rejected to the wife can be on the ground that wife is able to maintain herself and she has the requisite means to maintain herself; that she is 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.

6.In the case on hand, it is not the case of the petitioner 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 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 and appreciating the above in proper perspective, the Court below has granted maintenance.



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7.The facts of the case and the relationship between the parties is not disputed. Perusal of records reveal that the petitioner has not obtained any interim order from the lower Appellate Court. In the absence of any interim order, the petitioner ought to have paid the entire arrears in the arrears amount. Hence, the impugned order warrants no interference.

8.The petitioner is directed to deposit the entire arrears amount to the credit of C.M.P.No.3863 of 2023 in M.C.No.19 of 2015 on the file of the Judicial Magistrate No.II, Attur, less the amount if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order and shall continue to pay the maintenance amount to the respondent on or before 7th of every succeeding English Calender Month.

9.This revision is dismissed. Consequently, the connected miscellaneous petition is closed.

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

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To

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1.The Judicial Magistrate No.II, Attur.

M.DHANDAPANI,J.
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