



Crl.R.C.No.2175 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2024

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

Crl.R.C.No.2175 of 2023

and

Crl.M.P.No.19642 of 2023

M.Kamalakannan

... Petitioner

Vs.

1.J.Kavitha Sree

2.Minor Ruthvika Sree

Represented by her Next Friend/

Guardian Mother Kavitha Sree

... Respondents

PRAYER: Criminal Revision filed under Sections 397 r/w 401 of Code of Criminal Procedure, to set aside the order made in M.C.No.27 of 2022 dated 13.10.2023 on the file of the Family Court, Dharmapuri.

For Petitioner : Mr.S.Shankar

For Respondents : Ms.S.Vasavi Sridevi



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ORDER

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This Criminal Revision has been filed seeking to set aside the order made in M.C.No.27 of 2022 dated 13.10.2023 on the file of the Family Court, Dharmapuri.

2.This Court, on 28.08.2024, had passed the following order:

“The petitioner, who is the estranged husband of the respondent is challenging the order dated 13.10.2023 passed in M.C. No. 27 of 2022 by the Family Court, Dharmapuri, whereby the Lower Court had directed the petitioner to pay maintenance amount of Rs.20,000/- per month to the 1st respondent and Rs.15,000/- to the 2nd respondent, his minor daughter from the date of petition i.e., from 30.09.2022 and further pay a sum of Rs.50,000/- to each of the respondents towards medical expenses of the 1st respondent and educational expenses of the 2nd respondent apart from Rs.10,000/- as litigation expenses.

2.The contention of the learned counsel for the petitioner is that the 1st respondent had voluntarily deserted



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him and left the matrimonial home. According to the learned counsel, the petitioner is not the reason for such desertion. Further, it is submitted that the 1st respondent's mother is running a beauty parlour and earning good income; that her brother is employed in Bangalore in a Software Concern; that she also owns a family house in Dharmapuri and therefore, there is no necessity for the petitioner to pay maintenance to the 1st respondent. As regards 2nd respondent, the minor daughter is studying in a Government Aided School. In such circumstances, according to the learned counsel for the petitioner, ordering such huge maintenance amount is not proper. Before the Lower Court, on the side of the 1st respondent herein, one Sivakumar, Assistant Manager of Repco Bank, Dharmapuri, was examined as P.W.2, who had deposed that the petitioner is employed as a Manager in Repco Bank Head Office in T. Nagar, Chennai drawing gross salary of Rs. 97,333.75 and other allowances and his net salary is Rs.70,492/- together with Rs.31,344/- as other allowances, totally amounting to Rs.1,01,836/-. In such circumstances, the learned counsel would submit that ordering him to pay almost 50% of the salary is grossly improper as the petitioner has to



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take care of his aged parents, pay housing loan and other expenses.

3.Learned counsel for the respondents vehemently opposed the petitioner's contentions stating that the petitioner's gross salary has been considered. The petitioner has been earning Rs.1,28,677/-, which is likely to increase yearly. Further, the petitioner had filed divorce petition on the ground of cruelty, which came to be dismissed. The 1st respondent had filed a petition for restitution of conjugal rights, which was allowed and as against the both the orders, the petitioner has filed a Civil Miscellaneous Appeal, which is pending before this Court. Learned counsel for the respondents would further submit that in view of the judgment of Division Bench of this Court that as regards matrimonial dispute, Civil Miscellaneous Appeal is not maintainable and only a Civil Revision Petition has to be filed. Despite the same, no steps have been taken by the petitioner to convert the Civil Miscellaneous Appeal to a Civil Revision Petition. Learned counsel for the respondents submitted that the 1st respondent is ready for reunion and that the matter may be referred for mediation. He would further submit that the 1st respondent's



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concern is that her minor daughter should not lose the love and affection of both parents.

4.Learned counsel for the petitioner seeks a short accommodation to get instructions from the petitioner about the proposal suggested by the learned counsel for the respondents for mediation.

5.Post on 04.09.2024.”

3.In continuation and conjunction to the earlier order passed by this Court on 28.08.2024, today, when the case was taken up for hearing, the learned counsel for petitioner informed that petitioner is not interest in any mediation. The respondent is still willing for mediation and for reunion but now the denial of love, affection and care is because of the petitioner's adamant attitude. The petitioner is working as Branch Manager in Repco Bank and having a salary including other perks, around Rs.1,28,677/-. It is the finding of the Lower Court, which could not be seriously disputed by the petitioner.



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M.NIRMAL KUMAR, J.

rsi

4.In view of the same, this Court finds no reason to interfere with the orders of the Lower Court. Hence, the order passed by the Lower Court in M.C.No.27 of 2022 dated 13.10.2023 is confirmed. Accordingly, the Criminal Revision Case is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

04.09.2024

Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

rsi

To

1.The Family Court, Dharmapuri

2.The Public Prosecutor, High Court, Madras.

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