



Crl.RC.No.2170 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.RC.No.2170 of 2023

and

Crl.MP.No.19611 of 2023

Thirumalai Padmanabhan

...Petitioner

Vs.

1. Chitra
2. Minor Krishnaveni
3. Minor Minor Rithika
4. Minor Jaiarasi

Minors represented by Mother and
Natural Guardian Chitra

...Respondents

Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. to set aside the order passed in MC.No.29 of 2022 dated 27.09.2023 on the file of the Family Court, Krishnagiri.

For Petitioner : Mr.K.Selvarangan

For Respondents : Mr.J.Pradeep

ORDER



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This Criminal Revision Case has been filed seeking quashment of the order passed in MC.No.29 of 2022 dated 27.09.2023 on the file of the Family Court, Krishnagiri.

2. The case of the petitioner is that, the marriage between the petitioner/husband and the 1st respondent/wife was solemnised on 20.05.2009 and out of their wedlock, the respondents 2 to 4 were born. While so, due to some matrimonial dispute, they got separated. In such circumstances, alleging that the petitioner refused to maintain the respondents, the respondents filed a maintenance case under Section 125 of Cr.P.C. in M.C.No.29 of 2022 claiming a monthly maintenance of Rs.40,000/- to the respondents. The trial court, after adjudication, vide order dated 27.09.2023 allowed the said petition in part and directed the petitioner/husband to pay a monthly maintenance of Rs.4,000/- to the 1st respondent/wife and Rs.3,000/- each to the respondents 2 to 4. Aggrieved by the same, the petitioner has come up with this revision.

3. Learned counsel appearing for the revision petitioner submitted



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that, though the petitioner undertook to pay 50% of the arrears amount, since he is employed in India army, he is unable to take necessary steps to mobilise the funds to pay the arrears of maintenance amount and accordingly, he sought for time to deposit the arrears amount. He further the maintenance has been fixed without taking into consideration the financial capacity of the petitioner and the same requires to be modified.

4. Per contra, learned counsel appearing for the respondents submitted that the court below, on proper appreciation of the oral and documentary materials has fixed the maintenance, which does not warrant any interference.

5. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

6. There is no dispute about the marriage between the petitioner and the 1st respondent. The 1st respondent is the wife and out of their wedlock, they were blessed with the respondents 2 to 4. It is to be pointed out that it is the duty of the husband to maintain his wife and child and



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the comforts, which were available to the spouse and child should not be lost due to the friction between the warring parties. Only to that end, Section 125 Cr.P.C. was brought into the statute. In such a backdrop, it becomes the duty of the husband to maintain his wife and child.

7. 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 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 negated against the wife.

8. 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 u/s. 125 Cr.P.C. The court below, appreciating the above in proper perspective, has granted



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maintenance, in which, this Court does not find any fault with and thereby, this court is not inclined to interfere with the same.

9. For the reasons aforesaid, this Criminal Revision Case stands **dismissed** and the petitioner/husband is directed to pay the entire arrears of maintenance as ordered by the trial court to the respondents within a period of four weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

24.06.2024

skt

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To

The Family Court,
Krishnagiri.

M.DHANDAPANI, J.

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