



Crl.R.C.No.53 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

Crl.R.C.No.53 of 2024

and

Crl.M.P.No.394 of 2024

Silambarasan

... Petitioner

Vs.

1.Ammu alias S.Jayapradha

2.Minor Sanaya

Represented by her mother 1st respondent
and natural guardian

... Respondents

Prayer : Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C,
praying to allow this Criminal Revision and set aside the order dated
27.10.2023 passed in Maintenance Case No.22 of 2020 by the Family
Court, Perambalur.

For Petitioner : Mr.P.Sesubalan Raja

For Respondents : Mr.K.Balasubramaniam



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ORDER

This Criminal Revision Case is filed against the order of the learned Family Court, Perambalur dated 27.10.2023 in M.C.No.22 of 2020.

2. The case of the petitioner is that, the marriage of the petitioner/husband and the 1st respondent/wife was solemnized on 22.01.2018 at Ammapalayam and the 2nd respondent/daughter was born from and out of the wedlock between the petitioner and the 1st respondent. Due to misunderstanding, the petitioner and the 1st respondent are living separately. Thereafter, the petitioner filed divorce petition in H.M.O.P.No.141 of 2020 u/s 13(1)(i-a) of the Hindu Marriage Act before the Family Court, Tiruchirapalli seeking divorce on the ground of cruelty. In the mean time, the respondents have filed a maintenance case u/s 125 of Cr.P.C. in M.C.No.22 of 2020 on the file of Chief Judicial Magistrate, Perambalur and later, it was transferred to the Family Court, Perambalur, claiming total maintenance amount of Rs.65,000/- p.m. (i.e. Rs.40,000/- p.m. to the 1st respondent and Rs.25,000/- p.m. to the 2nd respondent). Simultaneously, the trial was conducted and divorce was



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granted in favour of the petitioner on the ground of desertion on 27.10.2023 and in the maintenance case, the trial court has ordered Rs.15,000/- as monthly maintenance in favour of the 1st respondent/wife and Rs.10,000/- as monthly maintenance in favour of the 2nd respondent/daughter vide impugned order dated 27.10.2023. Aggrieved by the same, the present revision is filed by the petitioner/husband.

3. The learned counsel appearing for the petitioner submitted that petitioner is ready to pay maintenance to the 2nd respondent/daughter, whereas, he is not liable to pay any maintenance to the 1st respondent/wife, since the 1st respondent refused to live with the petitioner and the said fact was established before the trial court in the divorce proceedings, based on which, the divorce was granted in favour of the petitioner. Accordingly, he prays for appropriate orders.

4. The learned counsel appearing for the respondents fairly submitted that the 1st respondent is not inclined to receive any maintenance from the petitioner on the ground that she performed her second marriage in the year 2024. He further submitted that the



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maintenance awarded in favour of the 2nd respondent is meagre and the petitioner has to take care of the 2nd respondent. Accordingly, he prays for appropriate enhancement of maintenance amount in favour of the 2nd respondent.

5. Heard the learned counsel appearing for the parties 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 the 2nd respondent is the daughter of the petitioner. It is to be pointed out that it is the duty of the husband to maintain his wife and child and 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. A perusal of the entire records reveals that the petitioner has



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filed a divorce petition in H.M.O.P.No.141 of 2020 before the learned Family Court, Perambalur and the respondents have filed maintenance case in M.C.No.22 of 2020 seeking monthly maintenance for them. After trial, on 27.10.2023, divorce was granted in favour of the petitioner on ground of desertion and in the maintenance case, the trial court ordered a sum of Rs.15,000/- as monthly maintenance in favour of the 1st respondent and Rs.10,000/- as monthly maintenance in favour of the 2nd respondent vide impugned order dated 27.10.2023.

8. 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.

9. In the case on hand, it is seen from the order of the trial court in divorce petition that the 1st respondent has refused to live with the



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petitioner and on the said ground only, the trial court has granted divorce in favour of the petitioner. Therefore, the 1st respondent is not entitled to receive any maintenance from the petitioner and accordingly, the monthly maintenance of Rs.15,000/- as ordered by the trial court vide impugned order dated 27.10.2023 passed in M.C.No.22 of 2020 is set aside.

10. Insofar as the monthly maintenance in favour of the 2nd respondent is concerned, it is the duty of the petitioner to maintain the 2nd respondent, since he is the father of the 2nd respondent, even though divorce was granted in his favour. Further, the monthly maintenance awarded in favour of the 2nd respondent by the trial court is on the lower side, hence, this Court enhances the monthly maintenance of the 2nd respondent to a sum of Rs.15,000/-.

11. Therefore, the petitioner is directed to pay a sum of Rs.15,000/- as monthly maintenance to the 2nd respondent/daughter on or before the 7th day of every English Calendar month till she got married. Further, the petitioner is also directed to pay the entire arrears of maintenance at the rate of Rs.15,000/- p.m. to the 2nd respondent within a



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period of four (4) weeks from the date of receipt of a copy of this order, less the amount, if any, already paid to the 2nd respondent. The petitioner is further directed to bare the yearly educational expenditure of the 2nd respondent, till she completes her studies.

12. With the above observations and directions, this Criminal Revision Case is partly allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

01.07.2024

Index : Yes / No
Speaking order / Non-speaking order
NCC : Yes / No
sp

To

The Family Court, Perambalur.



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M.DHANDAPANI, J.

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