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Crl.R.C.No.27 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.27 of 2024

and

Crl.M.P.No.259 of 2024

P.Murugavel

... Petitioner

Vs.

1.Nanthini

2.Minor Kavimegha

Minor rep. by her natural guardian-cum-mother 1st respondent

... Respondents

Prayer : Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C, praying to allow the criminal revision petition and thereby set aside the order dated 20.09.2023 passed in M.C.No.4 of 2022 on the file of the learned Judicial Magistrate No.II, Mettur in respect of 1st respondent/wife.

For Petitioner : Mr.A.R.Nixon

For Respondent : Mr.C.Deepakkumar

ORDER

This Criminal Revision Case is filed against the order passed in M.C.No.4 of 2022 dated 20.09.2023 on the file of the learned Judicial Magistrate No.II, Mettur.



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2. The case of the petitioner is that, the marriage between the petitioner and the 1st respondent was solemnized on 22.05.2017 at Sooriyaeswar temple at Kottaimedu in the presence of family members. Out of their wedlock, the 2nd respondent/minor daughter was born to them on 30.07.2018. Subsequently, there was some matrimonial dispute between the petitioner and 1st respondent and thereby, the 1st respondent is living separately along with the 2nd respondent in her parental house. Thereafter, the respondents have filed a maintenance case u/s 125 Cr.P.C. in M.C.No.4 of 2022 before the learned Judicial Magistrate No.II, Mettur, seeking monthly maintenance of Rs.10,000/- each. After adjudication, the trial court, vide impugned order dated 20.09.2023 directed the petitioner to pay a sum of Rs.2,500/- p.m each to the respondents towards maintenance. Challenging the same, the petitioner has filed the present revision.

3. Learned counsel for the petitioner submitted that the petitioner already filed a petition for restitution of conjugal rights in H.M.O.P.No.1951 of 2021 on the file of the learned Principal Family Judge, Coimbatore and the same was ordered on 17.09.2022, however, the 1st respondent/wife refused to live with the petitioner/husband, thereby the present revision is filed. Accordingly, he prays for appropriate orders.



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4. Learned counsel appearing for the respondents submitted that, the grounds raised by the petitioner before this court have not been taken before the trial court. Considering the facts and circumstances of the case, the trial court ordered only a sum of Rs.2,500/- p.m. towards maintenance to the respondents, which is very meagre. Even assuming the restitution of conjugal rights ordered in favour of the petitioner, in which, the petitioner can refuse to pay maintenance to the 1st respondent, however, it is the duty of the petitioner to pay maintenance to the 2nd respondent. Hence, he submitted that the order passed by the trial court does not require any interference. He further submitted that, if at all the petitioner has any grievance, he has to file appropriate application before the trial court for modification of the maintenance amount. Without doing so, filing the present revision is not sustainable. Accordingly, he prays for dismissal of the revision.

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



6. There is no dispute about the marriage between the petitioner and the 1st respondent. The petitioner is the father and the respondents are wife and minor daughter. 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 papers including the impugned order passed by the trial court would show that the 2nd respondent is under the care and custody of the 1st respondent. Though it is claimed by the respondents that the petitioner was earning a sum of Rs.55,000/- p.m. by working in a private company, however, the petitioner had admitted that he was working in private company and earning monthly income of Rs.15,000/- p.m. The trial court had arrived at a conclusion that the petitioner was earning a sum of Rs.15,000/- p.m., since the respondents have not produced any evidence to prove that the salary of the petitioner is Rs.55,000/- p.m. Considering the fact that he was earning Rs.15,000/- per month and also considering the fact that he has to maintain his mother,



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since he is the only son to maintain her, the trial court has ordered a sum of Rs.2,500/- p.m. each to the respondents towards maintenance, which is just and reasonable and the same does not require any interference. Hence, this court is not inclined to interfere with the impugned order passed by the trial court. However, if at all the petitioner had any grievances, he has to file appropriate petition before the trial court for modification of the maintenance amount ordered by the trial court.

8. Accordingly, the Criminal Revision Case is dismissed.

01.07.2024

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

The Judicial Magistrate No.II, Mettur.



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M.DHANDAPANI, J.

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