



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 30.01.2024

CORAM :

THE HONOURABLE Mr. JUSTICE C.KUMARAPPAN

C.R.P.(MD)No.1186 of 2013

and

M.P(MD)No.1 of 2013

Ashok @ Sankaranarayanan

... Petitioner/Respondent/
Respondent

Vs.

Rajeswari

...Respondent/Petitioner/
Petitioner

Prayer: Civil Miscellaneous Appeal is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 06.06.2011 in I.A.No.17 of 2009 in H.M.O.P.No.102 of 2007 on the file of the Sub-Court, Tuticorin.

For Appellant : M/s.B.Rajesh Saravanan
For R1 & R3 : M/s.S.Rajasekar



ORDER

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The present Civil Revision Petition has been filed at the instance of the husband, who is the respondent before the trial Court. The respondent herein is the petitioner before the trial Court.

2.For the sake of convenience, the parties will be referred to herein according to their litigative status as mentioned before the trial Court.

3.It appears that the petitioner/wife has filed an application seeking divorce under the ground of cruelty against her husband. During the pendency of the said divorce application, she has moved an application under Section 24 of the Hindu Marriage Act, seeking interim maintenance of Rs.3,000/- so as to maintain her son Arjun and also paid a sum of Rs.5,000/- towards expenditure.

4.The trial Court, having considered the either side submissions and on the basis of the material submitted by the parties, arrived at a conclusion that the petitioner/wife is entitled for a sum of Rs.2,000/- per month towards interim maintenance and also granted Rs.5,000/- towards litigation expenses. Aggrieved with the same, the respondent/husband has come before this Court.



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5.The learned counsel appearing on behalf of the respondent/husband would contend that the application under Section 24 of the Hindu Marriage Act filed by the wife only on the ground that she need maintenance in order to support her children viz., Arjun Sriram. Whereas, Section 24 of the Hindu Marriage Act, stipulates that the maintenance can be sought by the spouses against each other when they did not have sufficient source to maintain themselves. Therefore, the demand of maintenance for her son is not maintainable.

6.In support of his contention, he has also relied upon the judgment of this Court in ***S.Sumathi and Another-Vs-R.Sharavanakumar***, reported in ***2013(3) CTC 829***.

7.However, this Court is of the view that the maintenance of the petitioner also includes sufficient resource to maintain her children. It is the duty of the parents to maintain their children and in order to maintain their children, the parents must need source wherewithal. Even in the judgment relied by the learned counsel for the respondent/husband, this Court has categorically held that the right of the husband or wife's claim maintenance and



include his or her maintenance as well as for their children. Therefore, the judgment submitted by the learned counsel for the respondent/husband supports the finding arrived at by the trial Court. It is contended by the learned counsel for the respondent/husband that the petitioner/wife is also an employee and has sufficient income. At this juncture, the learned counsel for the petitioner/wife would contend that the respondent/husband is an employee of Southern Railway and he has not divulged as to what is his quantum of income and other aspects. Therefore, it is contended that the finding recorded by the trial Court is well merited.

8.As discussed herein above, the wife has filed an application to maintain his children. Therefore, she is entitled to move an application under Section 24 of the Hindu Marriage Act. Apart from that, the learned counsel for the petitioner/wife herein would contend that in spite of the order, the respondent/husband has not at all paid any maintenance since 2011, this Court has also took cognizance of such conduct of the petitioner/husband. Therefore, considering all these aspects, this Court is of the firm opinion that there is no ground to interfere with the order passed by the trial Court. Hence, the civil revision Petition is dismissed. No costs.



9.The learned counsel appearing for the respondent would submit that

HMOP is pending without any progress, in view of the stay granted by this Court. Therefore, this Court deems it appropriate to give a direction to the trial Court to dispose of the H.M.O.P.No.102 of 2007, within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

30.01.2024

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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To

1.The Sub-Court,
Tuticorin.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.
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