

CrI.R.C(MD).No.708 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 13.06.2024

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THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN

CrI.R.C.(MD).No.708 of 2023
and
CrI.M.P.(MD).No.13420 of 2023

Shanmugasundaram

... Petitioner

Vs.

1.Laxmi

2.Minor.Akashkumar

... Respondent

(2nd respondent is minor represented by his mother and natural guardian namely the 1st respondent)

PRAYER: This Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records and set aside the order dated 28.12.2021 made in M.C.No.22 of 2015, on the file of the learned Judicial Magistrate, Aruppukkottai.

For Petitioner : Ms.Saranya G.V.

For Respondent : Mr.S.Murugapandi



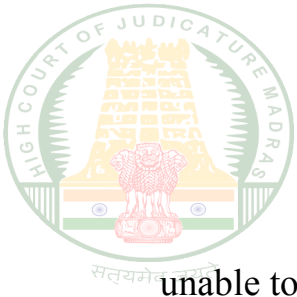
Crl.R.C(MD).No.708 of 2023

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ORDER

The husband has filed this revision challenging the award of maintenance of Rs.5000/- to the child alone namely the 2nd respondent, granted by the the Learned Judicial Magistrate, Aruppukottai in M.C.No. 22 of 2015 by order dated 28.12.2021.

2. The petitioner married the 1st respondent on 22.08.2005 as per the Hindu customs. During the marriage, on the 2nd respondent was born on 23.05.2009. On 08.04.2015, the 1st respondent performed tonsuring ceremony for the 2nd respondent without informing the petitioner and his family and the same was questioned and she was forced to leave the matrimonial home and she left the matrimonial home on 10.04.2015. Thereafter on 09.05.2015, the petitioner sent a legal notice and the 1st respondent sent a reply. After the reply notice, the 1st respondent filed M.C.No.22 of 2015 seeking maintenance of Rs. 7500/- for her and Rs.7500/- for the 2nd respondent. She also stated that the petitioner was working in a medical company called Biochem Pharmaceuticals and has been earning Rs.40,000/- as monthly salary. She stated that she was



Crl.R.C(MD).No.708 of 2023

unable to maintain herself and her child.

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3. The petitioner filed a counter admitting the relationship and stated that the 1st respondent without any cause left the matrimonial home and living separately without any fault on him and hence the claim of maintenance is liable to be set aside. He also pleaded that the 1st respondent is now working as temporary teacher and also owns a house constructed under the chief minister green house scheme and has sufficient income to maintain. Therefore he seeks to dismiss the maintenance petition.

4. To prove her claim of the maintenance, 1st respondent examined herself as PW1 and marked Ex.P1 to P7 and the petitioner examined himself as RW1 and also examined RW2 on his side and marked Ex.R1 to R4. The learned trial judge considered the entire evidence and dismissed the claim in respect of the respondent No.1 and granted maintenance in favour of the 2nd respondent namely child alone. Challenging the same, the petitioner has filed this revision.

5. The learned counsel for the petitioner submitted that the learned trial judge has found that the 1st respondent is employed and earning salary apart



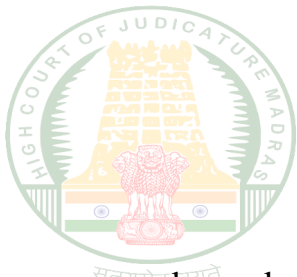
Crl.R.C(MD).No.708 of 2023

from owning a house and the petitioner's monthly salary was only Rs.25,000/- and hence, awarding the Rs.5000/- is not legally sustainable.

6. The learned counsel for the respondents submitted that the learned trial judge considering the salary of Rs. 25,000/- awarded only Rs.5000/- as a monthly maintenance for the child alone. The same is not adequate and proportionate to the present day cost of living, but due to her economic condition, the 1st respondent is unable to file revision against the dismissal of the maintenance petition against her and to enhance the maintenance amount for the child. Therefore he seeks to dismiss the revision.

7. This court considered rival submissions made by the learned counsel appearing on either side and perused the materials available on records.

8. The petitioner admitted the relationship and he disputed only the quantum of award. It is admitted case of the petitioner that he has been receiving Rs.25,000/- as monthly salary. He also agreed to pay Rs.3000/- to the child. But the learned trial judge has considered the educational expenditure of the child, cost of the living, monthly salary of 1st respondent and other guidelines laid



Crl.R.C(MD).No.708 of 2023

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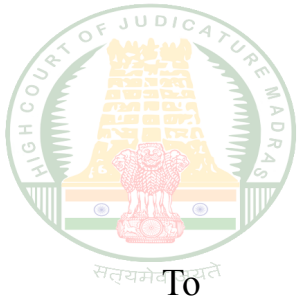
down by the Hon'ble Supreme Court in the case of the ***Rajnish Vs Neha reported in 2021 (2) SCC 324***. granted only Rs. 5000/- as a monthly maintenance for the child alone and declined to award maintenance to the wife/ 1st respondent. This Court finds no ground to interfere with the grant of maintenance of Rs. 5,000/- and hence this criminal revision is liable to be dismissed.

9. Accordingly, this criminal revision petition is dismissed confirming the maintenance award of Rs. 5,000/- to the 2nd respondent in M.C.No. 22 of 2015 on the file of the Learned Judicial Magistrate, Aruppukottai by order dated 28.12.2021. Connected miscellaneous petition also closed.

13.06.2024

Index : Yes / No
Internet : Yes / No
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Note: Issue order copy on 03.06.2025



Crl.R.C(MD).No.708 of 2023

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1. The Inspector of Police,
Usilampatti Town Police Station,
Madurai District.
2. The Principal Special Court for EC & NDPS Act Cases,
Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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Crl.R.C(MD).No.708 of 2023

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Crl.R.C.(MD).No.708 of 2023

13.06.2024