

Crl.R.C.(MD).No.130 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 17.04.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.130 of 2023
and
Crl.M.P(MD).No.1915 of 2023

P.Gunasekaran

... Petitioner

Vs.

Minor.Rajeswari

... Respondent

(Respondent represented through
her mother, Natural Guardian Sivakami)

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order dated 11.11.2022 passed in M.C.No.4 of 2022 on the file of the Family Court, Karur and set aside the same.

For Petitioner : Mr.D.R.Murugesan

For Respondent : Mr.M.P.Senthil



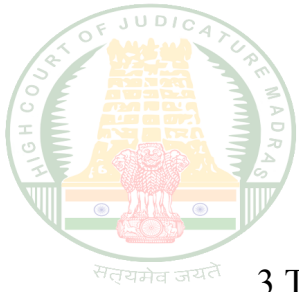
Crl.R.C.(MD).No.130 of 2023

WEB COPY

ORDER

The petitioner/husband has filed this petition challenging the maintenance award granted in M.C.No.4 of 2022, dated 11.11.2022 by the Family Court, Karur.

2.The petitioner/father filed the revision petition challenging the maintenance order granted in favour of the respondent herein. The respondent is the daughter. The wife of the petitioner alleged that the petitioner married her on 27.08.2004. During their wedlock, the respondent was born. Thereafter, there was some dispute between the parties and hence, the wife left the matrimonial home. Thereafter, the petitioner filed H.M.O.P.No.49 of 2015 seeking divorce and the same was dismissed and again he filed C.M.A.No.15 of 2017 before the Mahila Court, Karur and the same was allowed and divorce was granted. Against which, the respondent's mother filed C.M.A.S.A.No.31 of 2017 before this Court and the same is pending. In the said situation, the respondent's mother without any means, filed a petition in M.C No.4 of 2022 under Section 125 of Cr.P.C., before the Family Court, Karur, claiming maintenance of Rs.20,000/- for the respondent.



Crl.R.C.(MD).No.130 of 2023

WEB COPY

3.The petitioner/father herein filed a counter before the trial Court denying all the allegation and specifically stated that his wife was working as a physical education teacher in Government School, K.P.Thalaipatti, and earning sufficient income to maintain herself and her child. Hence, he sought for dismissal of the maintenance case.

4.The learned trial Judge, considered the documents marked as Ex.P1 to Ex.P22 and the evidence of the respondent side witnesses namely P.W.1 to P.W.4 and also considered the evidence of R.W.1 and documents marked as Ex.R.1 to Ex.R.3 and three certificates marked as X1 to X3, granted maintenance to the respondent stating that the petitioner is duty bound to pay the monthly maintenance of Rs.10,000/-(Rupees Ten Thousand Only) to the respondent. Challenging the same, the petitioner/husband herein has filed this present revision case.

5.The learned counsel appearing for the petitioner submitted that the respondent's mother was working as a Physical education teacher and she was earning sufficient income to maintain her child. Further, the minor respondents's mother filed a suit for recovery of money of Rs.25,00,000/- (Rupees Twenty Five



Crl.R.C.(MD).No.130 of 2023

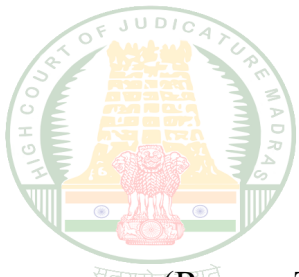
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Lakhs Only) from the petitioner for her minor daughter's marriage in O.S.No.207 of 2022 before the learned District Principal Judge, Karur and hence, the order of granting maintenance of Rs.10,000/- (Rupees Ten Thousand Only) is not in accordance with law. He further submitted that no evidence was adduced to prove the income of the petitioner. Hence, he seeks to allow this petition.

6.The learned counsel appearing for the respondent submitted that the amount granted by the learned trial Judge is a meagre amount. Therefore, all the aspects were considered by the learned trial judge and maintenance was granted. Hence, he seeks for dismissal of this petition.

7.This Court considered the submission made on either side and also perused the materials available on records and the impugned award passed by the Court below.

8. There is no dispute regarding the relationship between the parties. The only contention raised by the petitioner is that mother of the respondent was working as Physical education teacher in Government School. The learned trial Judge has not considered the same and granted the maintenance of Rs.10,000/-



Crl.R.C.(MD).No.130 of 2023

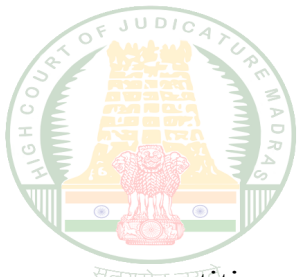
(Rupees Ten Thousand Only) to the respondent/minor daughter.

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9. The Hon'ble Supreme Court in the case of **Rajnesh v. Neha**, reported in **(2021) 2 SCC 324** has directed to consider the following guidelines:-

1. *Status of the parties.*
2. *Reasonable wants of the claimant.*
3. *The independent income and property of the claimant.*
4. *The number of persons, the non-applicant has to maintain.*
5. *The amount should aid the applicant to live in a similar lifestyle as he/she enjoyed in the matrimonial home.*
6. *Non-applicant's liabilities, if any.*
7. *Provisions for food, clothing, shelter, education, medical attendance and treatment, etc. of the applicant.*
8. *Payment capacity of the non-applicant.*
9. *Some guesswork is not ruled out while estimating the income of the non-applicant when all the sources or correct sources are not disclosed.*
10. *The non-applicant to defray the cost of litigation.*
11. *The amount awarded under Section 125 CrPC is adjustable against the amount awarded under Section 24 of the Act."*

10. PW1, PW2 deposed that petitioner is doing beetal leaf business and he has got number of immovable properties through the family partition and he is living with his second wife and lavishly leading his life without giving any amount of maintenance to the minor daughter. PW1 and PW2 also deposed that



Crl.R.C.(MD).No.130 of 2023

WEB COPY

petitioner purchased a Innova car and also has a tractor and renting it out and earning sufficiently namely more than Rs.30,000/- (Rupees Thirty Thousand Only) per month through the beetal business and earning more than Rs. 10,00,000/- (Rupees Ten Lakhs Only) per annum through agriculture and other business. Even though the petitioner examined himself as DW1, he has not adduced sufficient evidence to rebut the above statement. The respondent produced the documents to show the ownership of the agricultural lands and also the petitioner sold some of the lands during the pendency of the proceedings. From the petitioner side documents Exs.P6, P7, P8, P9, P10, P15 and also Exs.R1, R2, R3, this Court reasonably presumes that the petitioner would earn more than Rs.50,000/- (Rupees Fifty Thousand) per month. The specific evidence of the PW1, PW2 about the income of the petitioner has not been challenged in their cross examination to disbelieve their version. The daughter namely the petitioner is 14 years old studying 10th standard in Bharat Vidyalaya (CBSE School) in Karur in the stream of Judo and Aerobics. She is the topper in the school and also continuously engaged in extra curricular activities. She also got gold medal both in national level and state level. Considering her educational expenditure and the cost of living and also taking into account of the income of the mother of the respondent, the learned trial Judge, granted a reasonable



Crl.R.C.(MD).No.130 of 2023

WEB COPY

amount of Rs.10,000/- (Rupees Ten Thousand Only) as monthly maintenance to the respondent. Respondent is his own daughter and he is duty bound to maintain her. This Court is not in a position to appreciate the conduct of the respondent to decline the payment of maintenance by making the false statement that he does not have sufficient income. “Manu” imposes moral obligation to pay maintenance in the following words:

“The aged parents, a virtuous wife and an infant child must be maintained even by doing a hundred mis-deed” .

Therefore, he is liable to pay maintenance and the same was properly considered by the learned trial Judge by awarding Rs.10,000/-(Rupees Ten Thousand Only) per month and this Court does not find any infirmity and perversity in the impugned order. The Hon'ble Supreme Court repeatedly held that the revisional Court has no jurisdiction to interfere with the quantum of maintenance awarded by the learned trial Judge unless it is perverse. In this case, the learned trial Judge considered the income of the petitioner and decided the issue in accordance with law.



Crl.R.C.(MD).No.130 of 2023

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11. For the above said reasons, this Criminal Revision case fails and the same is dismissed. Consequently, the connected criminal miscellaneous petition is closed.

17.04.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No

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To

1. The Family Court,
Karur.
2. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.



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Crl.R.C.(MD).No.130 of 2023

K.K.RAMAKRISHNAN, J.

vsg

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