



Crl.R.C.(MD).No.192 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 23.04.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.192 of 2023
and
Crl.M.P(MD).No.2744 of 2023

G.Rajasekaran

... Petitioner /Respondent

Vs.

1. G.Karthiga

2. Minor G.Yadesh

... Respondents/ Petitioners

Rep. by his Natural Guardian Mother G.Karthiga

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 24.11.2022 passed in M.C.No.8 of 2022 on the file of the Family Court, Karur and set aside the same.

For Petitioner : Ms.A.Arul Jenifer

For Respondents : Mr.M.Muthumanickam,
Government Advocate(Crl.Side)



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ORDER

The petitioner who is the husband filed this revision challenging the maintenance award of Rs.10,000/- to the respondent granted in M.C.No.08 of 2022, by the learned Family Court, Karur, dated 24.11.2022.

2.The respondent has filed M.C.No.8 of 2022 with the following averments:-

The first respondent who is the wife stated that the petitioner married the respondent on 26.09.2012. During their wedlock, a male child was born. Thereafter, there was some material discord between the parties and hence, the respondent left the matrimonial home. In the said situation, the respondent without any means to meet her livelihood, filed a petition in M.C.No.8 of 2022 under Section 125 of Cr.P.C., before the learned Family Court, Karur, claiming maintenance of Rs.15,000/- for her and to the second respondent. In the petition, it was mentioned that the petitioner was engaged in building work and receiving monthly salary of Rs.50,000/-.



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3.The petitioner appeared and filed a counter denying the allegation made in the petition and he stated that the first respondent made a false complaint against the petitioner and his family members, without any basis and created a situation to live separately from the matrimonial home. Further, the first respondent, without any reasonable cause, left the matrimonial home and made the false complaint against the family members of the petitioner. The petition filed for divorce was allowed. She has sufficient means to maintain herself and seeks dismissal of the maintenance petition.

4.Before the trial Court, the respondent and others were examined as P.W.1 to P.W.3 and exhibited 4 documents as Ex.P.1 to Ex.P.4. On the side of the petitioner/husband, petitioner and another person were examined R.W.1 and R.W.2 and exhibited three documents. The learned trial judge considering the above documents and the evidence of witnesses, granted maintenance to the respondents stating that the petitioner is duty bound to pay the monthly maintenance of Rs.5,000/- to the first respondent and Rs.5,000/- to the second respondent. Challenging the same, the petitioner/husband herein has filed this revision case.



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5.The learned counsel for the petitioner would submit that no adequate evidence was produced to prove the income of the petitioner. Further, he is ready to pay the maintenance amount to the child alone and he disowned his liability to give maintenance to his wife. The learned trial Judge has granted a sum of Rs. 10,000/- as monthly maintenance to the respondents. The first respondent has adequate means to meet out her maintenance expenditure and the same was not considered. He further submitted that the petitioner has suffered kidney failure and he is taking treatment in Cauvery Hospital. Therefore, he seeks to set aside the order.

6. The learned counsel for the respondent/wife would submit that considering the admission of the petitioner that the petitioner is ready to pay amount to maintain his child, the learned trial Judge granted maintenance. Further, the learned trial Judge correctly ordered to pay the maintenance to the first respondent also. Hence, he seeks for dismissal of this Criminal Revision Case.



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

8.The relationship between the petitioner and the 1st respondent is not in dispute. Due to some matrimonial dispute, they are living separately. It is admitted case of the petitioner that his monthly salary is Rs.50,000/-. The learned trial Judge has considered the above aspect and correctly fixed the monthly maintenance of Rs.10,000/- to respondent, on the basis of the oral and documentary evidence. Since in all aspects the learned trial Judge correctly decided the entitlement of the respondent to claim maintenance from the petitioner, and reasonably fixed monthly maintenance of Rs.10,000/- to the respondents, considering the earning capacity of the petitioner and needs of the respondents and socio economic status of the parties and present day cost of living, and this Court does not find any ground to differ with the findings of the learned trial Judge. Further, the said award is in consonance with the guidelines issued by the Hon'ble Supreme Court in the case of ***Rajnesh v. Neha, reported in (2021) 2 SCC 324*** to determine the monthly maintenance:

- “1. Status of the parties.*
- 2. Reasonable wants of the claimant.*
- 3. The independent income and property of the claimant.*



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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.”

9. Therefore, the petitioner has a duty to maintain the respondents. However, the learned counsel appearing for the petitioner specifically submitted that the petitioner has suffered kidney failure and he spent huge amount for his medical expenses and he is taking care of his aged parents. Considering the above submission of the learned counsel appearing for the petitioner, this Court is inclined to reduce the maintenance amount of the first respondent alone from Rs.5,000/- to Rs.4,000/-.



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10. Accordingly, this Criminal Revision Case is partly allowed and the petitioner is directed to pay the monthly maintenance of Rs.4,000/- to the first respondent. In respect of the second respondent, the order passed by the learned Family Court, Karur, in M.C.No.08 of 2022, dated 24.11.2022 is hereby confirmed. Consequently, the connected miscellaneous petition is closed.

23.04.2024

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

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To

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



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K.K.RAMAKRISHNAN, J.

vsg

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