



C.R.P. (MD) No. 614 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

C.R.P. (MD) No. 614 of 2024

and

C.M.P. (MD) No. 3036 of 2024

Selvakumar

... Petitioner

-VS-

Sathiyapriya

... Respondent

Prayer:- Civil Revision Petition filed under Section 151 of the Civil Procedure Code, to set aside the fair and decreetal order dated 21.04.2023 passed in I.A. No. 1 of 2022 in H.M.O.P. No. 158 of 2021 on the file the Subordinate Court, Uthamapalayam.

For Petitioner : Mr. K.Raghul Priyan

ORDER

This Civil Revision Petition invoking Article 227 of the Constitution of India, 1950, has been filed against the order dated 21.04.2023 in I.A. No. 1 of 2022 in H.M.O.P. No. 158 of 2021 (hereinafter referred to as the 'impugned order' for short) passed by the Subordinate Court, Uthamapalayam (hereinafter referred to as the 'Trial Court' for short).



WEB COPY

2. Since the matter relates to a matrimonial dispute between the contesting parties, they are referred to as 'Husband' and 'Wife' for the sake of clarity and convenience.

3. The Husband had filed H.M.O.P. No. 158 of 2021 before the Trial Court against the Wife seeking divorce on the ground of cruelty. At the stage of cross-examination of the Husband, the application in I.A. No. 1 of 2022 had been filed by the Wife claiming interim maintenance of Rs.30,000/- (Rupees Thirty Thousand only) per month and the Trial Court by the impugned order has granted a sum of Rs. 5,000/- (Rupees Five Thousand only) per month towards the same payable by the Husband to the Wife from the date of that order to be credited into her bank account before the 10th of every month.

4. At this juncture, it would be relevant to extract the principles on the exercise of the jurisdiction of the High Court under Article 227 of the Constitution as formulated by the Hon'ble Supreme Court in the decision in ***Shalini Shyam Shetty -vs- Rajendra Shankar Patil*** [(2010) 8 SCC 329], which reads as follows:-



WEB COPY



C.R.P. (MD) No. 614 of 2024

- (a) A petition under Article 226 of the Constitution is different from a petition under Article 227. The mode of exercise of power by the High Court under these two articles is also different.
- (b) In any event, a petition under Article 227 cannot be called a writ petition. The history of the conferment of writ jurisdiction on High Courts is substantially different from the history of conferment of the power of superintendence on the High Courts under Article 227 and have been discussed above.
- (c) High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restrain on the exercise of this power by the High Court.



WEB COPY



C.R.P. (MD) No. 614 of 2024

- (d) The parameters of interference by High Courts in exercise of their power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in ***Waryam Singh -vs- Amarnath*** (AIR 1954 SC 215) and the principles in ***Waryam Singh -vs- Amarnath*** (AIR 1954 SC 215) have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.
- (e) According to the ratio in ***Waryam Singh -vs- Amarnath*** (AIR 1954 SC 215), followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and courts subordinate to it, “within the bounds of their authority”.
- (f) In order to ensure that law is followed by such tribunals and courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.



WEB COPY



C.R.P. (MD) No. 614 of 2024

- (g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.
- (h) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words, the jurisdiction has to be very sparingly exercised.
- (i) The High Court's power of superintendence under Article 227 cannot be curtailed by any statute. It has been declared a part of the basic structure of the Constitution by the Constitution Bench of this Court in ***L. Chandra Kumar -vs- Union of India*** [(1997) 3 SCC 261] and therefore abridgment by a constitutional amendment is also very doubtful.



WEB COPY



C.R.P. (MD) No. 614 of 2024

- (j) It may be true that a statutory amendment of a rather cognate provision, like Section 115 of the Civil Procedure Code by the Civil Procedure Code (Amendment) Act, 1999 does not and cannot cut down the ambit of High Court's power under Article 227. At the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227.
- (k) The power is discretionary and has to be exercised on equitable principle. In an appropriate case, the power can be exercised *suo motu*.
- (l) On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory.
- (m) The object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of



WEB COPY



C.R.P. (MD) No. 614 of 2024

the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under this article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.

Having regard to the aforesaid legal position *viz-a-viz* the grant of the sum of Rs.5,000/- (Rupees Five Thousand only) per month as an interim maintenance payable by the Husband to the Wife is reasonable and does not warrant any interference in the exercise of the supervisory jurisdiction by this Court.

5. This Court, during the earlier hearing on 06.03.2024 had required the Husband to pay the entire arrears of interim maintenance within ten days as a condition for referring the matter to mediation centre for settlement, but it has not been complied till date. In such circumstances, this Court is unable to accede to the fervent plea now made by the learned counsel appearing for the Husband to refer the matter for mediation. At the same time, it is made clear



C.R.P. (MD) No. 614 of 2024

that nothing said in the order shall preclude the Trial Court from referring the parties to mediation if the Husband makes payment of the entire arrears at later date and it is found expedient to do so.

In the result, the Civil Revision Petition is dismissed with the aforesaid clarifications. Consequently, the connected Miscellaneous Petition is also closed. No costs.

17.04.2024

Index : Yes/No
Internet : Yes/No
ta

To

- 1.The Officer Incharge,
Tamil Nadu Mediation and Conciliation Centre,
Madurai Bench of Madras High Court Campus,
Madurai – 625 023.
- 2.The Sub-Court, Uthamapalayam
- 3.The Mediation Centre,
Court Complex, Uthamapalayam.
- 4.Selvakumar,
S/o.Palanisamy,
Door No. 173/W2,
Mariyamman Kovil Street,
Erasakkanyakakanur,
Uthamapalayam Taluk,
Theni District.



C.R.P. (MD) No. 614 of 2024

5. Sathiyapriya,
W/o. Selvakumar,
D/o. Panneer Selvam,
Ration Shop Street,
Ward No.2, Manjinaikanpatti,
Poothipuram Village,
Bodinayakkanur Taluk,
Theni District.
6. The Section Officer,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P. (MD) No. 614 of 2024

P.D. AUDIKESAVALU, J.

ta

C.R.P. (MD) No. 614 of 2024

17.04.2024