



WEB COPY

C.R.P(MD)No.579 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

**C.R.P(MD)No.579 of 2022
and
C.M.P.(MD)No.2437 of 2022**

D.Prabhu

... Petitioner / Respondent / Petitioner

Vs.

J.Shanmugapriya

...Respondent / Petitioner /Respondent

Civil Revision Petition is filed under article 227 of the Constitution of India, to set aside the order in I.A.No.15 of 2021 in H.M.O.P.No.17 of 2020, dated 22.09.2021 on the file of the learned Principal Sub Judge, Palani.

For Petitioner
For Respondent

: Mr.K.C.Mariyarasu
: Mr.D.Venkatesh

ORDER

This civil revision petition is filed as against the order of the learned Sub-ordinate Judge, Palani, dated 22.09.2021 made in I.A.No.15 of 2021 in H.M.O.P.No.17 of 2020.



2.In the said interlocutory application, the respondent/wife had prayed for interim maintenance pending the HMOP. It is the case of the respondent/wife that the petitioner/husband is working in SAN Disc Company and he is earning monthly salary of Rs.1 lakh. It is also further averred that apart from the said monthly income, the petitioner is earning income from the other properties amounting to Rs.50,000/- The respondent filed counter affidavit. In the counter, in paragraph No.8, the said averment made by the wife is refuted as follows:

“8.This respondent/petitioner submits that the averments that the respondent is drawing a salary of Rs. 1,00,000/- per month is all incorrect. The petitioner has simply set out all those averments without supportive evidence only in order to grab money from this respondent. The averments that the petitioner is living with his brother who treats her as burden and they are living in a rented place and the petitioners have no source to lead their livelihood, etc., are stoutly denied as false. The petitioner had taken away all her belongings including the articles gifted by respondent's family members with her while she left her matrimonial home.”

3.In this background, taking into account the submissions of the parties, the trial Court ordered monthly maintenance of Rs.25,000/-, as against the claim of Rs.39,000/-.



4.Mr.K.C.Mariyarasu, learned counsel appearing on behalf of the petitioner would submit that ordering a sum of Rs.25,000/- is on the higher side. Presently, the petitioner is earning only Rs.25,000/- per month and therefore, interim maintenance at the rate of Rs.25,000/- ought not to have been ordered.

5.Per contra, learned counsel appearing for the respondent would submit that if the monthly income of the petitioner is more than Rs.1 lakh and Rs.25,000/- is being 25% of the earning of the petitioner per month and it is correctly ordered by the trial Court.

6.I have considered the submissions made on either side and perused the material records of the case.

7.As far as the interim maintenance is concerned, already the Hon'ble Supreme Court in *Kalyan Dey Chowdhury-Vs-Rita Day Chowdhury* reported in **2017(14) SCC 200**, has held that when it comes to the provision of interim maintenance, the quantum can be about 25% of the income of the husband. The main HMOP is pending. The wife has made specific averments as to the employment in a particular company and has mentioned about the quantum of salary. Except a bald denial, the respondent has not



come with any particulars. Neither he has produced any salary slip. Before the trial Court as well as before this Court he is seeking to maintain secrecy about his employment. When the trial Court has considered the income as one lakh and has awarded monthly maintenance of Rs.25,000/-, no error can be taken for the said finding.

8.In view thereof, the Civil Revision Petition is disposed of on the following terms:

(i)The order of the learned Principal Sub-Judge, Palani, in I.A.No.15 of 2021 in H.M.O.P.No.17 of 2020, dated 22.09.2021, shall stand confirmed.

(ii)Considering the facts that the HMOP is pending from the year 2020, the trial Court is requested to dispose of the HMOP as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

02.07.2024

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

- 1.The Principal Sub Judge,
Palani.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

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