



C.M.A.(MD)No.567 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.02.2024**

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**
AND
THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

C.M.A.(MD)No.567 of 2022
and
C.M.P.(MD)No.4921 of 2022

P.Saravanarajan

...Appellant

/Vs./

C.Vijaya

...Respondent

PRAYER:- Civil Miscellaneous Appeal - filed under Section 19 of the Hindu Marriage Act, 1956 to set aside the fair and decretal order dated 08.03.2022 made in I.A.No.18 of 2015 in H.M.O.P.No.781 of 2014 on the file of the Family Court, Madurai.

For Appellant : Mr.A.Selvam

For Respondent : Mr.Ponsenthilkumaran

JUDGMENT

DR.G.JAYACHANDRAN, J.
AND
C.KUMARAPPAN, J.

Heard the learned counsel appearing for the appellant and the respondent.



WEB COPY



C.M.A.(MD)No.567 of 2022

2. The husband, who suffered an order from the Family Court, Madurai which has awarded maintenance of Rs.20,000/-, to the wife /respondent on her application filed under Section 24 of the Hindu Marriage Act, has preferred this appeal, challenging that fixation of Rs.20,000/- per month as maintenance as it is not based on any material evidence. Further more, the respondent /wife had suppressed the order passed in the maintenance case filed under Section 125 of Cr.P.c., before the learned Judicial Magistrate, Alandur, wherein a sum of Rs.15,000/- per month was awarded and it was duly paid regularly.

3.The learned counsel appearing for the respondent submitted that nothing survives in this appeal since the appellant herein, after the order passed by the Family Court, Madurai in I.A.No.18 of 2015 on 08.03.2022, made a mentioning before the Family Court that the order passed by the learned Judicial Magistrate in an application filed under Section 125 of Cr.P.C., was suppressed by the respondent. The Family Court had taken up the matter *suo motu* to review the earlier order and modified the order to the effect that the maintenance amount awarded in the other proceedings initiated under Section 125 of Cr.P.C., shall be adjusted towards the maintenance amount fixed in I.A.No.18 of 2015. In



taken note of and the appellant herein was directed to pay only the balance of Rs.5,000/- in I.A.No.18 of 2015.

4.The order of the Family Court dated 11.04.2022 is extracted below for a complete understanding of the issue between the parties and the liability of the appellant herein towards payment of maintenance to the respondent:

“This petition is filed by the petitioner/husband for divorce against the respondent.

2. It is seen that in I.A. No.18/2015 on 08.03.2022 this court has ordered interim maintenance of Rs. 20,000/- in favour of the petitioner and directed the respondent to pay a sum of Rs. 50,000/- as litigation expense. Now on the side of respondent it is contended that a sum of Rs.17,45,000/- is in arrears and the respondent calculated the above maintenance of Rs.20,000/- into 86 months from the date of I.A.No.18/15 on 13.01.2015. The respondent filed objection stating that already in M.C.No.22/2014 as ordered by the Judicial Magistrate, Alanthur this petitioner is paying Rs. 15,000/- as maintenance to the respondent and so that amount has to be adjusted in the interim maintenance ordered in this case.

3. It is seen from the order in I.A.No.18/15 that the interim maintenance of Rs.20,000/- is not ordered in addition to the maintenance amount already ordered in any other law. The Honourable Supreme Court in the case Rajnesh Vs Neha discussed the issue of over lapping and held as follows:

The overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, we direct that in a subsequent maintenance proceeding, the applicant



WEB COPY



C.M.A.(MD)No.567 of 2022

shall disclose the previous maintenance proceeding, and the orders passed therein, so that the Court would take into consideration the maintenance already awarded in the previous proceeding, and grant an adjustment or set-off of the said amount. If the orders passed in the previous proceeding requires any modification or variation, the party would be required to move the concerned court in the previous proceeding.”

So from the above decision the court has to grant adjustment or set off the amount already ordered in any other proceedings. So this case the amount paid by way of maintenance as per the order of Judicial Magistrate, Alanthur has to be adjusted in the interim maintenance ordered by this court and the petitioner is ordered to pay the balance amount on or before 27.04.2022.”

5.In light of the order modified by the Family Court on 11.04.2022, this Court is of the view that nothing survives in this appeal. Accordingly, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[G.J.J.] & [C.K.J.]
15.02.2024

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

TO:-

The Family Court, Madurai.



WEB COPY



C.M.A.(MD)No.567 of 2022

DR.G.JAYACHANDRAN, J.
AND
C.KUMARAPPAN, J.

ta

Judgment made in
C.M.A.(MD)No.567 of 2022

Dated:
15.02.2024