



CrI.R.C.(MD)No.329 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.04.2024

CORAM

THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN

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1.C.Premalatha

2.(minor) Parthiv

... Petitioners

Vs.

S.Chockalingam

... Respondent

PRAYER : Criminal Revision Case has been filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order dated 11.03.2019 passed by the Chief Judicial Magistrate, Tiruchirappalli and direct the respondent to pay a sum of Rs.5,000/- per month to the first petitioner and Rs.10,000/- per month to the second petitioner.

For Petitioners : Mr.R.Narayanan

For Respondent : Ms.M.Sudha Rani



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ORDER

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The petition has been filed to set aside the order dated 11.03.2019 passed by the Chief Judicial Magistrate, Tiruchirappalli in M.C.No.54 of 2019 and direct the respondent to pay a sum of Rs.5,000/- per month to the first petitioner and Rs.10,000/- per month to the second petitioner.

2.The marriage between the first petitioner and the respondent was solemnized on 28.01.2007. The respondent is working in the Railway Department and he is earning more than a sum of Rs.40,000/-. Due to some misunderstanding, they were separated. Thereafter, the respondent filed divorce petition in H.M.O.P.No.297 of 2017 before the Family Court, Tiruchirappalli. Pending the divorce petition, first petitioner has filed maintenance petition before the Chief Judicial Magistrate, Tiruchirappalli, claiming a sum of Rs.15,000/- each to the petitioners.

3.The petitioner's claim was disputed by the respondent and the respondent filed counter affidavit in M.C., proceedings. In the M.C., proceedings, the respondent stated that the first petitioner is working as a data entry operator in a private company and he has also produced the



salary certificate.

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4.Before the trial Court, the first petitioner was examined as P.W.1 and exhibited 6 documents as Ex.P1 to Ex.P6. On the side of the respondent, two witnesses were examined as R.W.1 and R.W.2 and exhibited 5 documents as Ex.R1 to Ex.R5 and one material object was marked as Ex.X1.

5.The learned trial Judge after hearing both side counsels and perusing the salary certificate of the respondent, directed the respondent to pay a sum of Rs.5,000/- as monthly maintenance to the second petitioner alone. Challenging the same, the petitioners have filed this petition.

6.The learned counsel for the petitioners submitted that at the time of hearing the maintenance petition, the first petitioner was working as a data entry operator, subsequently, due to her health condition she did not continue her job. He further submitted that without considering the cost of living, day to day expenditure and education expenses, the trial judge



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passed the above said order. Hence, he seeks enhancement of maintenance amount.

7.The learned counsel for the respondent submitted that the learned trial Judge after considering all the aspects granted the maintenance amount to the second petitioner alone and also submitted that the first petitioner is working as a data entry operator and she is earning more than a sum of Rs.75,000/-. He further submitted that the respondent is earning a sum of Rs.40,000/- and with this amount, the respondent maintains himself and also his family members. Therefore, the maintenance granted by the learned trial Judge to the second petitioner alone is reasonable one. Therefore, he prayed for dismissal of this petition.

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



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9.Perusal of records shows that the marriage between the first petitioner and the respondent was solemnized on 28.01.2007. The respondent is working in the Railway Department and he is earning more than a sum of Rs.40,000/-. Due to some misunderstanding, they were separated. The respondent filed divorce petition in H.M.O.P.No.297 of 2017 before the Family Court, Tiruchirappalli. Pending the divorce petition, first petitioner has filed maintenance petition claiming a sum of Rs.15,000/-each to the petitioners. Since the first petitioner is working in the private company, the learned trial Judge has granted maintenance to the second petitioner alone and disallowed the maintenance for the first petitioner. The respondent is working in the Railway department and he is earning more than a sum of Rs.40,000/- per month and it is the duty of the husband to maintain his wife and his children. The Hon'ble Supreme Court has held in the case of ***Rajnish vs. Neha and another reported in 2021 2 SCC 324***, even in the case of earning by the wife, the Court has to consider whether the income is sufficient to enable her to keep up the standard of living by taking into account the status of the parties and essential needs of the wife and children and the relevant paragraph is as follows:



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78. The factors which would weigh with the court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife.

9.1. Therefore, this Court considering the cost of living and also considering the educational expenses, this Court directs the respondent to pay a sum of Rs.5,000/- (Rupees Five Thousand only) as maintenance to the first petitioner and to pay a sum of Rs.7,500/- (Rupees Seven Thousand and Five Hundred only) as maintenance to the second petitioner, from the date of the petition in M.C.No.54 of 2019.



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10. Accordingly, this Criminal Revision Case stands partly allowed

in the following terms:

10.1. The first petitioner is entitled to receive Rs.5,000/- as monthly maintenance from the date of the petition in M.C.No.54 of 2019.

10.2. The second petitioner is entitled to receive Rs.7,500/- as monthly maintenance from the date of the petition in M.C.No.54 of 2019.

10.3. The respondent is hereby directed to deposit the entire arrears of the amount within a period of four weeks from the date of receipt of a copy of this order.

30.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
tta/sbn

To

1. The Chief Judicial Magistrate,
Tiruchirappalli.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN,J.

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