



Crl.R.C.(MD).No.446 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD).No.446 of 2022

and

Crl.M.P.(MD).No.5844 of 2022

Panchavarnam

...Petitioner / Respondent

Vs.

1.Manohari

2.Minor.Nikkal Parasuraman

3.Minor.Vel Sugirthan

... Respondents/Petitioners

PRAYER : Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and to set aside the order, dated 27.10.2021 passed by the Family Court, Ramanathapuram, in M.C.No.51 of 2019.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.J.Barathan



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ORDER

This Criminal Revision has been filed challenging the order passed by the Family Court, Ramanathapuram, in M.C.No.51 of 2019, vide dated 27.10.2021.

2. According to the petitioner, he married the first respondent on 02.11.2008. Out of their wedlock, the second and third respondents were born. Thereafter, due to some matrimonial dispute, petitioner and the first respondent were separated and the first respondent is living along with her children in her mother's house. In the said circumstances, there are rival allegations made by both parties against each other. Hence, the proceedings in H.M.O.P. No.73 of 2021 has been initiated by the petitioner, seeking divorce, against the first respondent. Pending the same, the first respondent along with second and third respondents have filed a petition, claiming maintenance from the petitioner for herself and her minor children. In the maintenance petition, it is stated that the petitioner is working as Manager in a Corporation Bank and is earning more than Rs.1,00,000/- and also he has number of immovable properties. Hence, he has sufficient means to pay



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the maintenance and it is the duty of the husband to maintain his wife and children. In the maintenance case, the petitioner has filed a counter denying the allegations made by the first respondent and he has made rival allegations against the first respondent that the first respondent is working as a Teacher and she is earning from the business that was left by her deceased father. Hence, she has sufficient means to maintain herself and her children.

3. To prove the case, on the side of the first respondent, P.W.1 and P.W.2 were examined Ex.P.1 to Ex.P.7 were marked. On the side of the petitioner, R.W.1 to R.W.5 were examined and Ex.R.1 to Ex.R.12 were marked.

4. The learned trial Judge, after considering the materials available on record and the statement of the parties, has passed an order, granting maintenance of Rs.10,000/- to the first respondent and Rs.7,000/- each to the second respondent and third respondent. Challenging the same, the present revision has been filed.



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5. The learned counsel for the petitioner would submit that before the Court below, the petitioner submitted both oral and documentary evidence to show that the first respondent is conducting her deceased father's business and also earning huge income to maintain herself and apart from that she is working as Teacher. However, the same was not considered by the learned trial Judge. Hence, he seeks consideration of the above said evidence. Apart from that even though he is earning more than Rs.1,00,000/-, he is liable to repay the loan. After paying the loan amount, he is receiving only Rs.60,000/- only. Hence, the maintenance awarded by the Court below is excessive. Hence, the learned counsel for the petitioner seeks for reduction of the award amount that was awarded by the learned trial Judge.

6. The learned counsel for the first respondent wife would submit that not only the petitioner is working as Manager in a Bank and received the salary, but also he has number of immovable properties. On the other hand, the first respondent along with her children are living separately in her mother's house. Apart from that, the submission made by the learned



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counsel for the petitioner that the first respondent is working as Teacher is not proved and there is no proof to show the source of income of the first respondent and to show that she is conducting her deceased father's business. Hence, the learned trial Judge, after considering the materials available on record and status of the parties and also educational expenses of the children, has passed the maintenance award and there is no need to interfere in the award passed by the learned trial Judge. Hence, he seeks dismissal of the revision petition.

7. This Court has considered the rival submissions and also perused the records and impugned orders.

8. From the records, it is clear that there is no dispute regarding relationship of the parties. Further, H.M.O.P is pending for divorce before the appropriate Court. Apart from that, from the allegations made by both parties, there is sufficient grounds on the part of the first respondent to leave the matrimonial home. In the said circumstances, the learned trial Judge rightly hold that the respondents are entitled for maintenance. As far as the



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quantum of maintenance is concerned, the learned counsel for the petitioner/husband submitted that the first respondent is working as Teacher. But there was no evidence adduced to prove the same. Further, the evidence of P.W.1 reveals that she was initially working as Teacher and subsequently she was not allowed to work under a private school management. The first respondent is unemployed on the date of filing of the petition. The said facts were also considered by the learned trial Judge and it is the settled principles and the burden is entirely upon the petitioner husband to prove the nature of the job and source of income of the first respondent wife. In this case, since the petitioner husband failed to prove that the first respondent is working as Teacher, the contention of the petitioner is not acceptable. Another contention of the petitioner that the first respondent is continuing the business of her deceased father is concerned, learned trial Judge, after appreciating all the evidence adduced on the side of the petitioner i.e, R.W.1 to R.W.5 concluded that there was no acceptable evidence to show that she is continuing the business left by her father. A perusal of the record clearly shows that the petitioner is working as Bank Manager and is receiving more than Rs.1,00,000/- as salary. Hence, the



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learned trial Judge has correctly awarded the maintenance amount. In the said circumstances, there is no merit in this revision. Hence, this revision is dismissed. The award amount passed by the learned trial Judge, vide order dated 27.10.2021 is confirmed.

9. In the result, the Criminal Revision Petition is dismissed.
Consequently, connected Miscellaneous Petition is closed.

26.04.2024

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

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To

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



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K.K.RAMAKRISHNAN, J.

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