

Crl.R.C.(MD).No.555 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 13.06.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.555 of 2023

and

Crl.M.P.(MD)No.7834 of 2023

R.Karthick Raja

... Petitioner

Vs

Minor.Ananya Sri,
Rep. by her mother/guardian, Saranya
Devi, D/o.R.Karthick Raja, Ananda Nagar
1st Street, Vannarapettai, Usilampatti
Taluk, Madurai District.

... Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the order dated 21.03.2023 made in M.C No.54 of 2019 on the file of Family Court, Madurai and set aside the same as illegal and allow the revision petition as prayed for.

For Petitioner : Mr. Karthikeyan.J
for Gandhi Associates

For Respondent : Mr.T.Seeni Syed Amma
for M/S. Lajapathi Roy



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ORDER

This Criminal Revision Case has been filed against order dated 21.03.2023 passed in M.C.No.54 of 2019, on the file of the Family Court, Madurai.

2.The petitioner married one Saranya Devi and one girl child was born during the said wedlock. Due to some matrimonial dispute, the mother of the respondent lodged a complainant before the jurisdictional police. Subsequently, the petitioner/respondent filed anticipatory bail application before this Court. During the pendency of the anticipatory bail application, both the parties arrived at a compromise. The mother of the respondent examined herself as P.W.1. As per the terms of the compromise arrived at between the parties, a divorce petition was filed by them jointly in HMOPNo.669 of 218 and the same was allowed. As per the terms of the compromise, the petitioner/respondent is supposed to maintain his child, but the same was not complied with. Hence, the respondent/petitioner filed the maintenance petition.

2.1.The petitioner has filed a counter denying his liability to pay maintenance on the ground that there was divorce by mutual consent and there



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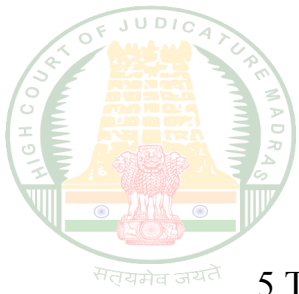
was no requirement of maintenance of child was stated in the said compromise.

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2.2.After the police complaint was made by the mother of the child, there was a compromise and on the basis of the said compromise, the compromise memo was filed in Crl.O.P.(MD).Nos.12310, 12314 and 12427 of 2018. Thereafter, the divorce was granted by mutual consent. Hence, he is not liable to pay maintenance.

3.The learned trial Judge after considering the nature of the job and the status of the petitioner/respondent, directed him to pay Rs.25,000/- as monthly maintenance. Challenging the same, the petitioner/respondent has filed this present petition to set aside the order of the trial Court.

4.The learned Counsel for the petitioner submits that the mother of the respondent is working as a Professor in a private college and the same was not taken into consideration by the learned trial Judge. Hence, the learned Counsel for the petitioner/respondent seeks for reduction of the maintenance amount.



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5.The learned Counsel for the respondent submits that no evidence was adduced except the simple plea that the mother of the respondent is working as a professor. Even though the mother of the respondent has admitted that she is working as a Professor, there is no proof for the monthly salary. Hence, he seeks for confirmation of the award.

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

7.The petitioner admitted the relationship and birth of the respondent through the marriage took place between him and mother of the respondent Saranya Devi. Saranya Devi also admitted the divorce granted in H.M.O.P.No. 669 of 2018 and the relationship as husband and wife has come to an end. Now, she has filed the maintenance petition to claim maintenance for the daughter. She pleaded that the petitioner has lot of properties and earns huge amount as monthly rent and also doing the finance business and earning monthly income of Rs.15,00,000/- per month and he has fleet of cars including a Benz Car. The petitioner has not appeared and examined himself as a witness to disprove the said monthly income but one of the tenants was examined on the side of the



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petitioner for receipt of the rental amount. He deposed that the property belonged to Rajamani and Panjavarnam, namely, parents of the petitioner, received the rental amount on behalf of his parents. The learned trial Judge correctly disbelieved the said evidence and held that the petitioner has right over the number of properties on the basis of Ex.P.10 to Ex.P.13. Therefore, he granted Rs.25,000/- as monthly maintenance. The learned counsel for the petitioner would submit that the mother of the child also was working as a Professor in the Private College. After divorce, the petitioner entered into 2nd marriage and he has to maintain the said family. Hence, he seeks to reduce the amount. P.W.1 the mother of the child also admitted that she is working as an Assistant Professor in the Aided College on temporary basis. Considering the admission of P.W.1 that she was working as an Assistant Professor and as per the ratio of the Hon'ble Supreme Court in the case of ***Rajnesh vs. Neha*** reported in ***2021 2 SCC 324*** the income of the wife also is to be taken into consideration to determine the maintenance amount and this Court is inclined to reduce the maintenance award amount from Rs.25,000/- to Rs.20,000/-.



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8. Accordingly, the Criminal Revision Case is partly allowed and the monthly maintenance amount granted in M.C.No.54 of 2019 on the file of the Family Court, Madurai by order dated 21.03.2023 is hereby reduced from Rs. 25,000/- to Rs.20,000/-. The petitioner is hereby directed to deposit the entire arrears amount as per the above reduction within a period of four months from the date of receipt of a copy of this order.

Consequently, connected miscellaneous petition is closed.

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

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K.K.RAMAKRISHNAN, J.

jbr/sbn

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