



C.R.P. (MD) No. 1796 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2024

CORAM

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P. (MD) No. 1796 of 2024

and

C.M.P (MD) No.10190 of 2024

T.Raju

... Petitioner/

Respondent

-VS-

Menaga

... Respondent/
Petitioner

PRAYER: Civil Revision Petition filed under Article 225 of the Constitution of India, to allow the civil revision petition and set aside the order in C.A.No.61 of 2023 dated 25.06.2004 on the file of IV Additional District and Sessions Judge, Madurai, confirming the order in CrI.M.P.No.5714 of 2020 in DVC No.5 of 2019 dated 15.06.2023 on the file of the Judicial Magistrate, Additional Mahila Court, Madurai.

For Petitioners : Mr.C.Godwin



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ORDER

The Civil Revision Petition is directed against the order dated 25.06.2024 in C.A.No.61 of 2023, whereby the order passed by the learned Judicial Magistrate Additional Mahila Court, Madurai in CrI.M.P.No.5714 of 2020 in DVC No.5 of 2019 dated 15.06.2023 is confirmed. By the said order, the total sum of Rs.15,000/- (Rupees Fifteen Thousand only) is ordered as maintenance in respect of the respondent wife and one minor child.

2. Heard Mr. C.Godwin, the learned Counsel appearing on behalf of the petitioner. The learned Counsel would submit that the take home salary of the petitioner is only Rs.13,000/- (Rupees Thirteen Thousand only) after the deductions in his salary. He would also produce the salary slip of the petitioner. He would further submit that taking into account the status of the parties, the Trial Court awarded a sum which is on the higher side. The respondent wife has been doing nothing except to harass the husband and when there is no ground whatsoever to burden the husband with the maintenance amount, the Trial Court ought not to have ordered and the lower appellate Court also erred in confirming the same.



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3. I have considered the said submissions made by the learned Counsel of the petitioner and perused the material records of the case.

4. The sum which is ordered is only pending the main Domestic Violence Case and as such, it is interim maintenance. When for the respondent wife and the minor child together Rs.15,000/- is ordered, the same is only barest minimum and cannot be said as an exorbitant amount. Considering the capability of the petitioner, the petitioner is working as a Clerk in the Highways Department with the Government of Tamil Nadu and his gross salary is Rs. 51,000/- and merely because he has obtained several loans and the deductions are made and the take home is less, the same cannot be considered.

5. The Hon'ble Supreme Court of India in the judgment of ***Kalyan Dey Chowdhury v. Rita Dey Chowdhury*** reported in ***AIR 2017 SC 2383***, has held roughly about 25% of the salary of the husband can be ordered as maintenance. If that is taken into account, the amount of Rs.15,000/- (Rupees Fifteen Thousand only) is cannot be said as excessive.

6. The learned counsel for the petitioner relied upon the judgment



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reported in *Aditi alias Mithi v. Jitesh Sharma* reported in **2023 INSC 981**,

wherein, in the absence of the income being shown to the husband and without filing an affidavit, the award of maintenance was held to be bad. But, in the instant case, admittedly the petitioner is a Government servant and his salary slip also produced before the Court. In view thereof, I do not find any compelling reasons to interfere with the discretion exercised by the Trial Court as well as the lower appellate Court in exercise of the revisionary jurisdiction and finding no merits, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

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D.BHARATHA CHAKRAVARTHY, J.

PKN

To

1. The Judicial Magistrate, Additional Mahila Court, Madurai.

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