



C.M.A(MD)No.117 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
and
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

C.M.A(MD)No.117 of 2024

Kingston

: Appellant

vs.

Priyaka

: Respondent

PRAYER: Civil Miscellaneous Appeal has been filed under Section 19 of the Family Courts Act, 1984, against the fair and decreetal order dated 14.09.2023 passed in I.A.No.3 of 2022 in D.O.P.No.33 of 2022 on the file of the Family Court, Thoothukudi.

For Appellant : Mr.S.Muthumalai Raja
For Respondent : Mr.M.Pandian

JUDGMENT

[Judgment of the Court was made by
MRS.V.BHAVANI SUBBAROYAN.J.]

Being aggrieved over the award of interim maintenance, the husband has filed this appeal.



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2. The marriage between the appellant and respondent was solemnised on 24.08.2020. Alleging that the respondent caused mental cruelty, the appellant filed divorce petition in DOP.No.33/2022 on the file of the Family Court, Thoothukudi. Pending divorce petition, the respondent/wife filed I.A.No.3 of 2022 in D.O.P.No.33 of 2022 seeking interim maintenance. The Family Court after hearing both sides by impugned order, has awarded interim maintenance of Rs.7,500/- from the date of divorce petition along with costs of Rs.10,000/- payable by the appellant to the respondent. Aggrieved by the fixation of interim maintenance amount, the husband is on appeal.

3. Learned counsel for the appellant contended that without considering the fact that the appellant is earning a meagre sum of Rs. 6,000/- as monthly income, the Family Court has erroneously fixed the exorbitant sum of Rs.7,500/- as monthly maintenance. He further submitted that suppressing the mutual dissolution agreement entered into between the appellant and respondent, the respondent filed interim maintenance petition with unclean hands which the Family Court failed to appreciate. Thus, he submitted that the impugned order is liable to be set aside.



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4. Learned counsel for the respondent submitted that the Family Court considering the cost of living and price index, has fixed only a minimum sum of Rs.250/- per day and awarded Rs.7,500/- as monthly maintenance along with costs. Further, it is the duty of the husband to maintain his wife and therefore, the learned counsel prayed for dismissal of the appeal.

5. We have heard the learned counsel for the appellant as well as the respondent.

6. On the allegation of mental cruelty on the part of the respondent, appellant filed divorce petition. Pending that petition, the respondent sought for interim maintenance. The Family Court found that the appellant without furnishing any particulars regarding the properties owned by him, loans, his occupation details and his occupational income, has simply averred that he is earning Rs.6,000/- per month. However, the Family Court considering the cost of living and price index, has fixed the minimum of Rs.250/- per day and awarded Rs.7,500/- to the respondent along with Rs.10,000/- towards costs. In our view, fixation of Rs.7,500/-



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as monthly maintenance cannot, at any stretch of imagination, be said to be exorbitant, whereas it is only a minimum amount required for a person to meet out his day-to-day expenses. Further, as a husband, the appellant is duty bound to maintain his wife as per law. Therefore, we are not inclined to interfere with the impugned order.

7. The appellant is directed to pay the respondent the arrears of maintenance from the date of divorce petition till date along with costs, within a period of six weeks from the date of receipt of a copy of this order and continue to pay the monthly maintenance as fixed by the Family Court every month till the disposal of the divorce petition filed by him.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed.
No costs.

(V.B.S.J.) (K.K.R.K.J.)
15.03.2024

Index :Yes / No
Neutral Citation :Yes / No
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WEB COPY

To

1. The Judge,
Family Court,
Thoothukudi.

2.V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



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V.BHAVANI SUBBAROYAN, J.

and

K.K. RAMAKRISHNAN, J.

bala

JUDGMENT MADE IN
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