



Crl.R.C.(MD)No.211 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2024

CORAM

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

Crl.R.C.(MD)No.211 of 2024

and

Crl.M.P.(MD)No.2405 of 2024

C.Suresh

... Petitioner

Vs.

T.Mahalakshmi

... Respondent

**PRAYER :** Criminal Revision Case is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records in M.C.No.10 of 2021 in HMOP.No.108 of 2020 on the file of the learned Family Court, Srivilliputhur dated 05.07.2023 and set aside the judgment of the trial Court.

For Petitioner : Mr.T.Thirumurugan

For Respondent : Mr.B.Arun

### **ORDER**

The petitioner/husband has filed the present revision challenging the maintenance award granted in M.C.No.10 of 2021 in HMOP.No.108 of 2020 on the file of the learned Family Court, Srivilliputhur dated 05.07.2023.

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2.The case of the respondent/wife before the Court below is that the marriage between her and the petitioner took place on 23.08.2018 and after two miscarriages, there was some dispute between them and hence, the respondent left the matrimonial home on 16.11.2019. In the said circumstances, the petitioner filed a petition for divorce in HMOP.No.108 of 2020 and the same came to be dismissed. Thereafter, the respondent filed a petition claiming maintenance of Rs.20,000/-

3.The petitioner filed a counter affidavit denying all the allegations made by the respondent. Subsequent to the dismissal of the divorce petition, he filed an appeal before this Court and the same is pending. Apart from that he pleaded that the respondent is earning a sum of Rs.10,000/- as monthly income.

4.In order to prove the claim, the respondent examined herself as P.W.1 and marked Ex.P.1 to Ex.P.7. The petitioner examined himself as R.W.1 and marked Ex.R.1 to Ex.R7. The learned trial Judge, after considering the oral and documentary evidence, awarded a sum of Rs. 6,000/- per month.



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5.The learned counsel appearing for the petitioner submitted that the respondent, even though pleaded that the petitioner earned a sum of Rs.40,000/-, no income certificate was produced. Without any proof, the learned trial Judge has fixed the monthly income of the petitioner as Rs.40,000/-. Therefore, he seeks interference of this Court.

6.The learned counsel appearing for the respondent submitted that the petitioner herein is earning more than Rs.40,000/- and he failed to discharge his duty as husband. Hence, he seeks to confirm the award passed by the Court below.

7.This Court heard the rival submissions made on either side and perused the materials available in the record.

8.The petitioner herein admitted the relationship between him and the respondent. He pleaded that he is earning only a sum of Rs.10,000/-, however, he did not produce any evidence. The petitioner was examined as R.W.1. In his evidence, he admitted that still he is working in the



Ramco Mill, and was working as a temporary staff. But, he has not examined any person from the said Ramco mill, to prove his actual salary.

9. The learned trial Judge considered the above aspect and correctly fixed the monthly maintenance of Rs.6,000/- to the respondent, on the basis of the oral and documentary evidence. Since in all aspects the learned trial Judge correctly decided the entitlement of the respondent to claim maintenance from the petitioner, and reasonably fixed monthly maintenance of Rs.6,000/- to the respondent, considering the earning capacity of the first respondent and needs of the respondent and social economic status of the parties and present day cost of living, this Court does not find any ground to differ with the findings of the learned trial Judge. Further, the said award is in consonance with the guidelines issued by the Hon'ble Supreme Court in the case of ***Rajnish v. Neha***, reported in (2021) 2 SCC 324 to determine the monthly maintenance:

- “1. Status of the parties.*
- 2. Reasonable wants of the claimant.*
- 3. The independent income and property of the claimant.*
- 4. The number of persons, the non-applicant has to maintain.*



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5. *The amount should aid the applicant to live in a similar lifestyle as he/she enjoyed in the matrimonial home.*

6. *Non-applicant's liabilities, if any.*

7. *Provisions for food, clothing, shelter, education, medical attendance and treatment, etc. of the applicant.*

8. *Payment capacity of the non-applicant.*

9. *Some guesswork is not ruled out while estimating the income of the non-applicant when all the sources or correct sources are not disclosed.*

10. *The non-applicant to defray the cost of litigation.*

11. *The amount awarded under Section 125 CrPC is adjustable against the amount awarded under Section 24 of the Act."*

10. Accordingly, this criminal revision case is dismissed and the order passed by the Family Court, Srivilliputhur, in M.C.No.10 of 2021 in H.M.O.P.No.108 of 2020, dated 05.07.2023, is hereby confirmed. Consequently, connected miscellaneous petition is closed.

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



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To  
The Family Court, Srivilliputhur



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**K.K.RAMAKRISHNAN,J.**

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