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C.R.P.(PD).No. 87 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.02.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No. 87 of 2025

S.Sharmila

...Petitioner

Vs.

A.E. Ayyapadoss

...Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 22.10.2024 made against IA.No.2 of 2022 in HMOP.NO.3384 of 2022, on the file of the III Additional Family Court, Chennai.

For Petitioner : Mr. A.Arfat Mohammed
For RK Law Firm

For Respondent : Mr. A.Arun Kumar



C.R.P.(PD).No. 87 of 2022

ORDER

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Challenging the dismissal of her application seeking maintenance under Section 24 of the Hindu Marriage Act, the wife is the petitioner before this Court. The short facts which have resulted in the filing of this petition is herein below set out.

2. The petitioner / wife has filed HMOP.No.3384 of 2022 on the file of the III Additional Principal Family Court, Chennai seeking divorce on the grounds of cruelty. It is her case that she had been married to the respondent on 03.05.2007, out of which two children were born to them. The petitioner had to leave the matrimonial home on account of the cruelty that she had suffered at the hands of the respondent. In fact right from the commencement of their relationship as husband and wife, she has met with cruel and inhuman treatment from the respondent. The respondent would also hurt her by using harsh words.



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3. The petitioner submits that even when she had got pregnant neither the respondent nor his family took care of the petitioner and the petitioner was made to do all the house work. The petitioner would submit that she had not only faced the abusive languages of the respondent but also from his grand father who is about 90 years of age. The petitioner would submit that she was very keen in continuing her education and after the birth of first child, she had requested the respondent to permit her to study.

4. However, the respondent was not very keen on the same and ultimately he and his parents agreed to the same on condition that the education expenses would be the sole responsibility of the petitioner. The petitioner had pledged her jewelery to support her decree course. Meanwhile she had conceived her second child in December 2007. She was compelled to abort the child.



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5. In the year 2009, the respondent's father passed away.

Thereafter the petitioner was accused of not having taken care of her father-in-law properly that being the reason for the death. This caused mental agony to the petitioner and meanwhile she had also got pregnant and once again she was forced to undergo abortion. In the year 2011 she had once again conceived and this time refused to abort the child. The respondent's family was very indifferent towards the 2nd child. In fact the respondent's brother had ran away with the gold chain of the petitioner's daughter. The petitioner would submit that these acts caused great deal of mental agony and heart break to the petitioner.

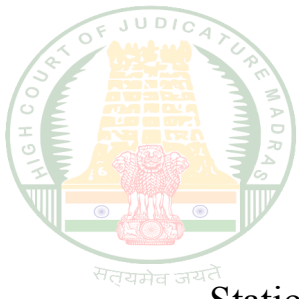
6. In the year 2012, the petitioner joined M.Tech Course. She was constantly being distracted by the respondent's mother. Despite which the petitioner completed her studies and joined for Ph.d in the year 2015. Since the behaviour of respondent's family was getting worse, the petitioner walked out of the matrimonial home on 19.07.2022. Thereafter, she come forward with the present petition.



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7. The allegation made by the petitioner was denied as absolutely false and misleading by the respondent. The respondent would submit that the children are being taken care of by the respondent. The allegations that children are not taken care of by the respondent is absolutely false. The respondent would further submit that the petitioner never took care of the children even to the extent of preparing their meals. It was the respondent's mother who was taking care of them.

8. The respondent would submit that on perusing the call and chat details of the petitioner he had come to learn that she was in relationship with the IV Year student in the College in which she was lecturer and along with the said person and his mother a false complaint has been lodged with the Police against the respondent. After enquiry and investigation the complaint was found to be false.



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9. The respondent would submit that after she left Police Station he was not even able to find about her whereabouts. That apart she took all the gold ornaments, Silver utensils and Thali chain while leaving the house. Therefore, the respondent would submit that the allegations contained in the petition is absolutely false.

10. Pending HMOP, the petitioner has filed IA.No.2 of 2022 seeking interim maintenance of Rs.50,000/- per month and one time litigation expenses of Rs.30,000/-. The petitioner would submit that though she was working as a lecturer she was removed from service on account of the charges.

11. The learned III Additional Family Judge, Chennai, proceeded to dismiss the said application. The learned Judge took the view that the petitioner's contention that she had been thrown out of her early job was only on account of the complaint given by the respondent is not acceptable. The learned Judge observed that the respondent / husband's salary after deduction was only Rs.67,537/-. The two children are



being taken care of by the respondent and he is also having personal loans.

12. The learned Judge observed that the petitioner who is well qualified and was already employed can definitely earn her livelihood and the fact that the respondent father had taken the responsibility of bringing up both children should be considered and he cannot be further taxed with paying interim maintenance to the petitioner.

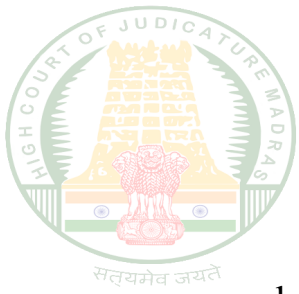
13. Challenging the same, the petitioner is before this Court.

14. The contention of the petitioner is that she was removed from her earlier employment only on account of the complaint at the instigation of the respondent. By reason of her being dismissed from service she is not able to get any other employment. It is further submitted that in a connected proceedings, the petitioner had been set ex parte, against which an appeal was made to this Court in Civil Miscellaneous Appeal. A stay was granted on condition that the



respondent pays a sum of Rs.15,000/- per month. The respondent has been paying the same. Therefore, the petitioner is entitled to maintenance.

15. The respondent's counsel would submit that the petitioner has voluntarily left her matrimonial home leaving her two daughters in the care and custody of the father. Even when the petitioner was employed she had never contributed any amount for the children. He would further submit that the petitioner is deliberately not seeking employment. In fact she has not even challenged the dismissal made against her, which would only go to show that the petitioner does not want to get into any employment and is trying to use the respondent. He would submit that the respondent has a task of taking care of the two young children. The first of whom is aged about 18 years and the second child is 14 years old.

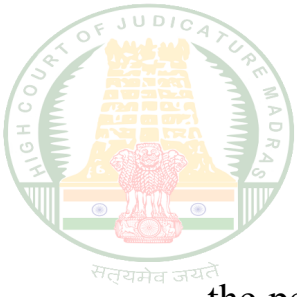


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16. That apart, not only should he take care of their day to day needs but also their educational expenses, all of which is quite expensive. In addition to that if he asks to pay interim maintenance to the petitioner he would be put to a great deal of financial strain. Therefore, he would submit that CRP be dismissed.

17. Heard the learned counsels on the either side and perused the records.

18. It is seen that as an interim maintenance, the petitioner has been receiving a sum of Rs.15,000/- as per orders of this Court. The fact that the petitioner is unemployed is not denied. It is no doubt true that she has obtained doctorate and was employed as lecturer. Therefore, she is capable of earning her livelihood. Having secured a doctorate it is rather surprising that the petitioner has not secured an employment till now.



C.R.P.(PD).No. 87 of 2025

WEB COPY

19. The learned counsel for the petitioner assures the Court that the petitioner would within a period of 8 months would find a suitable job for herself. Therefore, considering the earlier order, the same shall be continued for a further period of 8 months, within which time the petitioner would seek an employment.

20. The Civil Revision Petition is allowed on the above terms.

No costs.

28.02.2025

Index : Yes/No

Internet : Yes/No

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To

The III Additional Family Court,
Chennai.



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