



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2025

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.3071 of 2024
and CrI.M.P. No.2837 of 2024

V.Selvakumar

... Petitioner

Vs.

J.Lavanya

... Respondent

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to set aside the Judgment dated 22.12.2023 passed by the Additional District Judge (Fast Track Court), Mettur in CrI.R.P. No.24 of 2023 against MC. No.10 of 2022 dated 29.05.2023 partly allowed by the Judicial Magistrate No.1, Mettur.

For Petitioner : Mr.K.P.Sathish Kumar

For Respondent : Mr.K.Jayachandiran

ORDER

This petition has been filed challenging the order passed by the learned Additional District Judge (FTC), Mettur in CrI.O.P. No.24 of 2023 dated 22.12.2023, confirmed the order passed by the learned Judicial Magistrate No.I, Mettur in MC. No.10 of 2022 dated 29.05.2023,

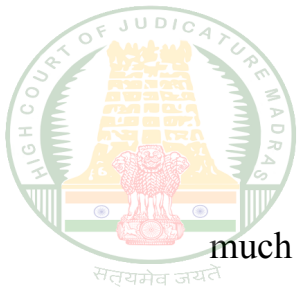


thereby ordered a sum of Rs.8,000/- towards monthly maintenance in favour of the respondent.

2. It is seen that the petitioner and the respondent got married and gave birth to a male child and thereafter, due to misunderstanding they got separated and the respondent has been driven out from the matrimonial home. Therefore, the respondent could not maintain herself and filed the petition seeking maintenance in MC.No.10 of 2023 before the learned Judicial Magistrate No.I, Mettur. After full fledged trial, the Trial Court vide order dated 29.05.2023 ordered a sum of Rs.8,000/- as monthly maintenance payable by the petitioner in favour of the respondent herein.

3. Aggrieved by the same, the petitioner has filed a Revision in Crl.R.P. No.24 of 2023 and the same was dismissed by the learned Additional District Judge on 22.12.2023 and confirmed the order passed by the learned Judicial Magistrate No.I, Mettur.

4. The learned counsel for the petitioner submits that the respondent suppressed the fact that she got already married and gave birth to a child, the respondent/wife cannot claim maintenance since the marriage itself is void. In fact, the first husband of the respondent is very

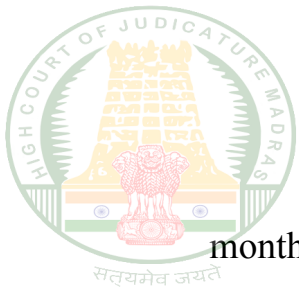


much alive. The respondent has filed Restitution of Conjugal Rights petition in HMOP. No.104 of 2016 before the Sub Court of Mettur and the petitioner had filed FCOP. No.346 of 2010 seeking divorce before the Family Court, Salem. The petitioner is maintaining his Minor child and is also giving education in a reputed school as well as he is taking care of his old parents and it is very difficult to the petitioner to pay Rs.8,000/- as monthly maintenance to the respondent.

5. Per contra, the learned counsel for the respondent submits that the petitioner is having a hotel business and also doing car brokerage. Admittedly, the respondent got married at the age of 16 years and gave birth to a child, subsequently they got separated by way of customary divorce and the child born through the first respondent also died. After knowing fully about these facts, the petitioner married the respondent and gave birth to a male child and living together so many years. Thereafter for various reasons, the petitioner left the respondent in lurch and as such the respondent maintained herself.

6. Heard learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

7. Considering the above facts and circumstances, the learned Judicial Magistrate No.I, Mettur ordered to pay a sum of Rs.8,000/- as



monthly maintenance which was also rightly confirmed by the Revision Court. Now after a period of 11 years having been together, the petitioner cannot take the stand that his marriage itself is voidable, since the respondent got married with another person and it is still in substance. Though the petitioner is maintaining his son by giving Education in a reputed School and maintaining his old parents, he is dutiful to maintain his wife during her lifetime, even after divorce. The respondent is living in rental house and she has to pay rents, apart from her other maintenance, therefore, this Court finds no infirmity or illegality of the order passed by the Courts below.

8. Further on perusal of the submissions of the petitioner, the respondent is a beautician and doing some work, this Court is inclined to reduce the maintenance payable by the respondent to the tune of Rs.6,000/- from Rs.8,000/-. Accordingly, the order passed by the Judicial Magistrate and confirmed by the Revision Court, is now modified to the effect that the petitioner is liable to pay a sum of Rs.6,000/- as monthly maintenance to the respondent on or before 5th of every English Calendar Month. The respondent is permitted to withdraw the amount which is deposited by the petitioner to the credit of M.C.



No.10 of 2022.

WEB COPY

9. Accordingly, this petition is partly allowed with the above modification. Consequently, connected Miscellaneous Petition is closed.

18.02.2025

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

rkp

To

1. The Additional District Judge (Fast Track Court),
Mettur.
2. The Judicial Magistrate No.I,
Mettur.
2. The Public Prosecutor,
High Court, Madras.



WEB COPY

6



G.K.ILANTHIRAIYAN, J.

rkp

Crl.O.P.No.3071 of 2024
and Crl.M.P. No.2837 of 2024

18.02.2025