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CrI.R.C.No.571 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.03.2025

Coram:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

CrI.R.C.No.571 of 2024 &
CrI.M.P.No.5266 of 2024

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Arumugam

.. Petitioner

Vs.

1.Minor Kesavan

2.Minor Swathi

Both represented by mother & natural guardian
Kamatchi

3.Kamatchi,

All are residing at Mariamman Koil Street,
Pandakappadi Village,
Veppanthattai Taluk,
Perambalur District - 622 116.

.. Respondent

Criminal Revision Case filed under Section 397 read with Section 401 of
Cr.P.C., 1973, against the order dated 27.10.2023 passed by the Family Court,
Perambalur in M.C.No.22 of 2022.

For petitioner : Mr.A.Veeramarthini

For respondents : No appearance



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ORDER

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The petitioner/husband has challenged the order dated 27.10.2023 passed by the learned Judge, Family Court, Perambalur in M.C.No.22 of 2022. The respondents/wife and children filed the case for maintenance, and the learned Judge of the Family Court, after considering the case, granted a sum of Rs.5,000/- to the first respondent (son), Rs.5,000/- to the second respondent (daughter), and Rs.9,000/- to the third respondent (wife) as monthly maintenance. Challenging the said order, the present revision has been filed by the petitioner/husband.

2. Despite notice being served to the respondents, the respondent did not appear. The learned counsel appearing for the petitioner submitted that the respondents have not established that the petitioner is an earning member with sufficient means, and despite having the means, he neglected to pay maintenance. The learned counsel further submitted that the third respondent/wife voluntarily deserted the petitioner without any valid reason, and the petition filed by the petitioner for divorce in H.M.O.P.No.206 of 2020 was withdrawn based on an assurance given by the third respondent. Thereafter, the petitioner and the third respondent lived together for approximately three months. However, the third respondent subsequently left the matrimonial home again without any valid reason. Despite this, the petitioner also filed for restitution of conjugal rights, but the third respondent refused to return and live with the petitioner. The petitioner argued that since the third respondent left the matrimonial home without valid reason, she was



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not entitled to maintenance. The petitioner further argued that he is not a person of means to provide maintenance and that the order passed by the learned Judge of the Family Court is against the law and prayed to set aside the same.

3. A perusal of the record shows that the petitioner originally filed the petition for divorce, which was later withdrawn. It is also admitted that the third respondent and the petitioner reunited and lived together for about three months, but she subsequently left the matrimonial home. However, a further perusal of records, it could be seen that the third respondent has stated that the petitioner consumed alcohol and harassed her and the other respondents/children, which led to her being unable to bear the harassment, resulting in her departure from the matrimonial home. She also claimed that she had no option but to leave, as she had minor children to care for.

4. The trial Court found that the reason for the third respondent's departure from the matrimonial home was the harassment caused by the petitioner after consuming alcohol. Although the petitioner contended that the third respondent (wife) was working as a daily wage labourer and earning a sum of Rs.15,000 per month, he failed to substantiate this claim with any evidence. On the other hand, the petitioner himself admitted that he is a returnee from abroad and currently owns 1.75 acres of agricultural land from which he is earning income. It is apposite to note that the petitioner has a legal obligation to maintain his wife and children. Since



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he failed to provide any evidence to disprove the third respondent's claims or to establish that he was financially incapable of doing so, the Family Court rightly granted maintenance. Although the petitioner denied the allegations, his position is weakened by the absence of supporting evidence. On the other hand, the respondents also did not furnish any concrete details regarding the petitioner's salary or financial status. However, the record indicates that the petitioner is a returnee from abroad and owns 1.75 acres of agricultural land. Moreover, the respondents did not appear either in person or through counsel. Considering the prevailing market conditions, the respondents' lack of financial independence, and the plea of the petitioner regarding his financial incapacity, the Family Court's order is modified having regard to the overall facts and circumstances of the case. Accordingly, the maintenance amount of Rs.5,000/- each to the first and second respondents shall remain unaltered. However, the maintenance awarded to the third respondent (wife) is reduced from Rs.9,000 to Rs.5,000/-.

5. With the above modification, this Criminal Revision case is disposed of.

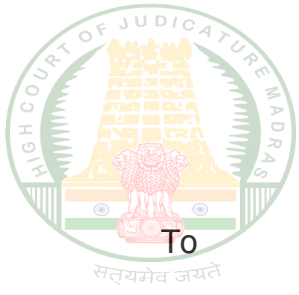
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Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No



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To

WEB COPY The Family Court, Perambalur.



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P.VELMURUGAN, J

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