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C.R.P.(PD).No. 720 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.02.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).Nos. 720 of 2025

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C.M.P.No. 4113 of 2025

N.Kirubakaran

...Petitioner

Vs.

Nandhini

...Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in IA.No.2 of 2023 in HMOP.No.678 of 2023 dated 13.03.2024 passed by the Additional Principal Family Court, Coimbatore.

For Petitioner : M/s. Sudharshana Sunder



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ORDER

The husband is the petitioner before this Court. The brief facts which has culminated in the filing of the petition are as follows.

2. The petitioner has filed HMOP.No.678 of 2023 on the file of the Additional Principal Family Court, Coimbatore seeking restitution of conjugal rights. The petitioner is a practicing Doctor. His marriage with the respondent was solemnised on 04.06.2010 at Salem and they have been blessed with a son Jaipranav, who is now aged about 12 years. Although the marital life was smooth sailing in the initial months, after the respondent started insisting upon the petitioner to settle at Canada, trouble started between the petitioner and the respondent. The respondent would quarrel with the petitioner and his parents.



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3. All of a sudden on 31.10.2014 the respondent had left the matrimonial home along with the 3 years old child without any reason. Thereafter, the respondent would not even permit the petitioner to see his son. The respondent had also given a police complaint against the petitioner before All Women's Police Station, Coimbatore and the petition was closed after enquiry as there was no truth in the complaint.

4. Thereafter, the respondent had filed a petition for divorce in HMOP.No.508 of 2015 on the file of the Additional Family Court, Coimbatore. In this application, the petitioner had filed an application seeking visiting rights to see minor child in I.A.No.865 of 2015. Immediately, the respondent withdrew the main petition. Subsequently, the petitioner filed a petition for dissolution of marriage against the respondent in FCOP.No.126 of 2016 on the file of the Family Court, Salem, which was transferred to the file of the Family Court, Coimbatore, as HMOP.No.1120 of 2016. This petition was also subsequently withdrawn by the petitioner as he was only interested in



rejoining the respondent.

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5. Thereafter, the respondent had filed a maintenance case in MC.No.98 of 2017 on the file of the Additional Family Court, Coimbatore, seeking a monthly maintenance of Rs.7,50,000/- for her minor child. The maintenance petition is pending. In addition to that she had also initiated proceedings in DVC.No.484 of 2019 on the file of the Additional Judicial Magistrate for Domestic Violence Cases, Coimbatore. The same is pending.

6. Therefore, the petitioner since he wants to rejoin his wife and child has taken out this application.

7. A detailed counter has been filed by the respondent, wherein she had alleged that the petitioner had second family with two children and that he had cheated on her. Therefore, the possibility of returning to the matrimonial home is near impossible and allegations to the contrary are totally false. The respondent would submit that in the



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initial HMOP.No.1120 of 2016, which is filed by the petitioner for dissolution of marriage, the respondent had filed an application under Section 24 of the Hindu Marriage Act for interim maintenance. After contest a sum of Rs.60,000/- per month was directed to be paid to the respondent.

8. This was challenged by the petitioner in CMA.No.578 of 2018. Initially a conditional stay was granted on payment of 50% of the amount. Thereafter by order dated 27.09.2019 this appeal was dismissed. The petitioner was directed to pay the 50% of the arrears within 4 weeks and the remaining within 2 weeks. Later HMOP.No.1120 of 2016 was withdrawn. The maintenance amount therefore was paid only till the withdrawal of the HMOP. Thereafter, from the year 2024, there has been no payment.

9. The respondent would submit that the petitioner herein is running a multi specialty hospital with a 100 bed facility. That apart, he is also doing businesses like hotel, furniture, granite, etc., Despite



being affluent he has not agreed to maintain the petitioner and his minor son.

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10. Pending the above petition, the respondent has come forward with the impugned application, seeking monthly maintenance of Rs.3,00,000/-.

11. The petitioner has resisted the above application by contending that he has been kept in dark about his son's progress and study. That apart, he has only a small hospital with two Doctors and four special visiting doctors and it is only 31 beds that are available and not 100 beds as contended. He would submit that he earned 11,50,000/- for the assessment year 2022 – 2023. He would also submit that he had borrowed money for the purpose of the hospital which he has to repay.

12. He would submit that he is ready and willing to take care of the son and the petitioner should handover custody to him. He would



submit that the petitioner herself is affluent and does not require to be maintained.

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13. The learned Judge taking into consideration the affidavit of assets and liabilities and considering the status of the parties has granted a sum of Rs.50,000/- as a interim maintenance to the petitioner (IA.NO.2 of 2023) and a sum of Rs.10,000/- to the minor son (IA.NO.3 of 2023). The petitioner has only challenged the order passed in I.A.No.2 of 2023.

14. The petitioner is admittedly running a multi specialty hospital and his affidavit of assets and liability clearly shows that he is earning a gross income of Rs.11,50,000/- per annum. That apart, it is seen that in the earlier proceedings for divorce in HMOP.No.1120 of 2016, the learned Judge had passed orders directing the petitioner to pay a monthly maintenance of Rs.60,000/-. This order was taken up on challenge by the petitioner in CMA.No.578 of 2018, which is ultimately dismissed by order dated 27.09.2019.



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15. Therefore, it is seen that even earlier, the petitioner had been directed to pay monthly maintenance. Even this maintenance was paid by him only till the date he had withdrawn the HMOP.

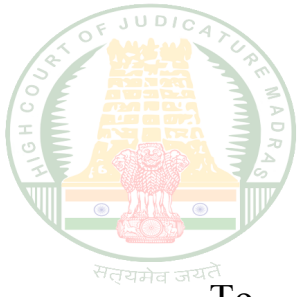
16. The learned Additional Principal Family Judge, Coimbatore has taken into consideration the over all status of the parties and granted a very reasonable compensation. I see no reason to interfere with the same.

17. The CRP is dismissed. The connected miscellaneous petition is closed. No costs.

25.02.2025

Index : Yes/No
Internet : Yes/No

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To
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Additional Principal Family Judge,
Coimbatore.



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P.T. ASHA, J,

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