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Crl.R.C.No.1272 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No. 1272 of 2024

and

Crl.M.P.No. 11140 of 2024

J.Palani Shankar

... Petitioner

..VS..

1. M.Anitha

2. Minor P.Kiruthika

Rep.by her mother Mrs.M.Anitha

... Respondents

Criminal Revision Case filed under Sections 397 read with 401 Cr.P.C., to call for the records from the learned IV Additional Judge, Family Court, Chennai in M.C.No.120 of 2018 and set aside the impugned order passed in M.C.No.120 of 2018 dated 29.10.2022.

For Petitioner : Mr.S.Sathyaraj

For Respondents : Mr.M.I.Javid Akbar



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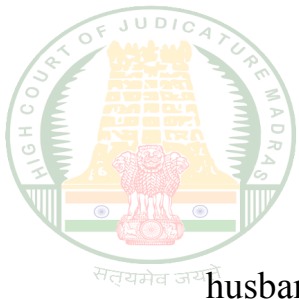
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ORDER

This Criminal Revision Petition is preferred against the order dated 29.10.2022 passed in M.C.No.120 of 2018 by the IV Additional Judge, Family Court, Chennai.

2. The petitioner is husband, the first respondent is wife and the second respondent is their minor daughter. The respondents herein filed a maintenance case invoking Section 125 Cr.P.C., in M.C.No.120 of 2018 before the IV Additional Judge, Family Court, Chennai, seeking monthly maintenance to them. The learned Judge, after appreciating the entire materials and also considering the submissions of both sides, directed the petitioner – husband to pay a sum of Rs.4,000/- to the first respondent – wife and Rs.4,000/- to the second respondent – minor daughter i.e., totally Rs.8,000/- as monthly maintenance to the respondents. Assailing the same, the present revision petition is filed by the petitioner – husband.

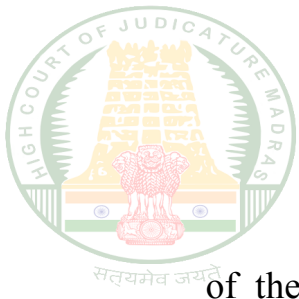
3. Learned counsel for the petitioner submitted that the petitioner-



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husband is suffering from Varicose Veins disease, due to which, he cannot stand and walk for a long time. If the petitioner stand and walk for a long time, his legs would swell and hence, the petitioner cannot get job and he is struggling to lead his day-to-day life without job and income. The first respondent – wife knowing very well about the health issue of the petitioner and not interested to perform the matrimonial obligation, deserted the petitioner without any valid reason and both are living separately from the year 2007 onwards. He further submitted that the first respondent-wife is M.com., graduate and earning a sum of Rs.25,000/- per month, apart from that she is having own houses at Chennai and getting rental income of more than Rs.30,000/- per month. He further submitted that before the Court below the petitioner had filed the Affidavit of Assets and Liabilities Statement, wherein, his monthly income is cited as Rs.6,000/- per month. However, the learned Magistrate failed to consider the educational qualification and economic status of the first respondent –wife and also failed to consider the earning capacity of the petitioner and ordered a sum of Rs.4,000/- per month for each of the respondents, which is exorbitant and disproportionate to the income



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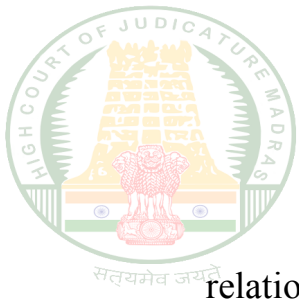
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of the petitioner. Therefore, the maintenance awarded by the learned Judge may be set aside.

4. Learned counsel appearing for the respondents submitted that before the Court below both the parties have filed their Affidavit of Assets and Liabilities Statement, wherein, the petitioner – husband has not disclosed his actual monthly income. In order to avoid paying maintenance to the respondents, the petitioner suppressed his present employment and also his income. He further submitted that the petitioner's contention is that he has been affected by Varicose Veins disease, but that cannot be a deciding factor of petitioner's earning capacity. The learned Judge, after due enquiry, ordered only a sum of Rs.4,000/- as monthly maintenance for each of the respondents, which is only a meagre amount and there is no merit in the revision and hence, the same is liable to be dismissed.

5. Heard both sides and perused the materials available on record.

6. Admittedly, there is no dispute with regard to the marital



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relationship between the parties and also it is not in dispute with regard to the paternity of the second respondent – minor daughter. The only dispute, according to the petitioner – husband, is that the first respondent – wife is a graduate and earning more than the petitioner and hence she is not entitled to get any maintenance. However, the petitioner has not produced any documents to prove the employment and earning capacity of the first respondent. Though the petitioner has stated that he is earning only a sum of Rs.6,000/- per month, he has not produced any Bank statement or any pay slip to prove his monthly income. Further the petitioner has stated that he is suffering from Varicose Vein disease, due to which, he is not able to do any work and he is struggling to lead his day-to-day life, but he has not examined any independent witness or Doctor to prove that he is not able to do any work due to the said disease. From the records it is seen that the petitioner is now working in Sundaram Motors, Ambattur. Though the first respondent – wife is graduate, the petitioner has not produced any oral or documentary evidence to prove that the first respondent –wife is having sufficient means to maintain herself and his daughter. Further, the minor daughter



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is also with the first respondent-wife and the maintenance ordered by the learned Judge i.e., Rs.4,000/- per month for each of the respondents is very meagre amount.

7. Considering the facts and circumstances and also considering the price index and cost of living, this Court does not find any reason to interfere with the impugned order passed by the Court below. There is no merit in the revision and the same is liable to be dismissed. Accordingly, the Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed.

26.03.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Case Citation : Yes / No
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To

The IV Additional Judge,
Family Court, Chennai



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P.VELMURUGAN, J.

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