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Crl.RC.No.717 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.717 of 2024 and
Crl.M.P.Nos.8125 and 8126 of 2024

S.Yuvaraj

... Petitioner

Vs.

1.Chitra

2. Udaya Suriya (minor)

S/o.S.Yuvaraj

Represented by the 1st respondent
as his guardian

... Respondents

Prayer: Criminal Revision Case filed under Section 397 and 401 of Cr.P.C. to set aside the order passed in M.C.No.236 of 2020 dated 12.03.2024 on the file of IV Additional Principal Family Court, Chennai.

For Petitioner : Mr.M.Mahdan Kumar

For Respondents : Mr.T.J.Kulasekar



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ORDER

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This Criminal Revision Case has been filed by the petitioner to set aside the order passed in M.C.No.236 of 2020 dated 12.03.2024 on the file of IV Additional Principal Family Court, Chennai.

2. The case of the petitioner is that the first respondent who is the wife of the petitioner along with their minor son, filed a maintenance case before the IV Additional Principal Family Court, Chennai in M.C.No.236 of 2020 and the learned Judge, after enquiry, ordered monthly maintenance of Rs.10,000/- to the first respondent/wife and Rs.20,000/- to the second respondent/son by order dated 12.03.2024. Feeling aggrieved by the same, the petitioner/husband has filed the present revision.

3. The learned counsel for the petitioner submitted that the first respondent is not entitled for any maintenance since she is leading adultery with one Ravi. Further, the petitioner is having loan for Rs.18,50,000/- which was borrowed for their elder daughter's marriage and that he is paying interest



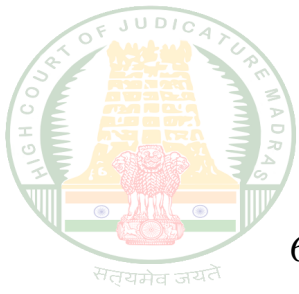
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for the same. The petitioner's take home salary is only Rs.45,000/- and

therefore, the order of maintenance of Rs.30,000/- to the respondents is not proportionate to the net income of the petitioner. Hence, the order of maintenance passed by the learned Judge, Family Court is liable to be set aside.

4. The learned counsel for the respondents submitted that the petitioner has not proved the allegation of adultery. Further, subsequent to the filing of the maintenance case, the petitioner filed a petition for divorce on the ground of adultery, cruelty and desertion and the same is still pending. Other than salary, the petitioner is also getting rental income from properties. He also submitted that the second respondent has attained majority in the year 2022 and therefore, the petitioner is paying maintenance only to the first respondent/wife which is only Rs.10,000/-. Therefore, there is no merits in this revision and the same is liable to be dismissed.

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



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6. The relationship between the petitioner and the first respondent is not in dispute. The paternity of the second respondent is also not in dispute. The respondents are living separately away from the petitioner is also not in dispute.

7. A reading of the materials shows that the petitioner has not proved the allegation of adultery against the first respondent. Therefore, the Family Court ordered maintenance to the first respondent. Further, the petitioner has filed a petition for divorce on the ground of adultery and unless the competent civil Court decides the same or the petitioner substantiate the allegations in the maintenance, he cannot escape from the payment of maintenance.

8. Admittedly, the petitioner has not substantiated the allegation of adultery in the maintenance case and therefore, the contention of the petitioner that since the first respondent is leading adultery she is not entitled for maintenance, is not acceptable. However, in case the petitioner succeeds in the petition for divorce, he can always file a petition under Section 127 of Cr.P.C.



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for modification on the ground of change of circumstances.

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9. As far as the maintenance to the second respondent is concerned, it is seen that the second respondent who is the son of the petitioner, has attained majority in the year 2022 itself i.e during pendency of the maintenance case itself and the Family Court has failed to consider the same and ordered maintenance to the second respondent/son. Therefore, the order of maintenance to the second respondent alone is modified to the effect that the second respondent is entitled to the maintenance from the date of filing of the maintenance case till the date of his attainment of majority.

10. With the above observations and modification, this Criminal Revision Case is disposed of. Consequently, the connected Miscellaneous Petitions are closed.

07.04.2025

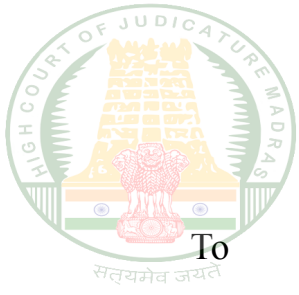
Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

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The IV Additional Principal Family Court,
Chennai.



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P.VELMURUGAN. J.

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