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Crl.RC.No.502 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.502 of 2025

D.Priya

... Petitioner

Vs.

V.Dhamodaran

... Respondent

Prayer: Criminal Revision Case filed under Section 438 B.N.S.S. 2023, to call for the records and set aside the order passed in M.C.No.12 of 2023 dated 31.12.2024 as against the petitioner (on the file of the Family Court, Tiruvallur).

For Petitioner : Mr.D.Ashokkumar



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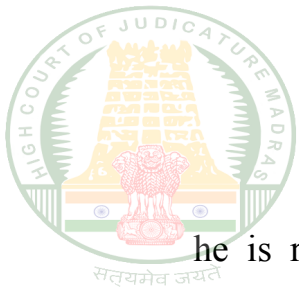
ORDER

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This Criminal Revision Case has been filed by the petitioner to set aside the order passed in M.C.No.12 of 2023 dated 31.12.2024 on the file of the Family Court, Tiruvallur.

2. The petitioner is the wife of the respondent herein. The petitioner along with two minor children filed a maintenance case in M.C.No.12 of 2023 before the file of the Family Court, Tiruvallur, seeking Rs.20,000/- per month to each of them along with Rs.25,000/- towards litigation cost. Though the learned Judge, after enquiry ordered maintenance of Rs.15,000/- each to the minor children, dismissed the petition as against the petitioner/wife. Aggrieved by the order of dismissal, the petitioner/wife has filed the present revision.

3. The learned counsel for the petitioner submitted that since the respondent deserted the petitioner and the children, the petitioner is maintaining the children and she has no means to maintain herself and the children. The respondent is an influenced person and also a man of means and



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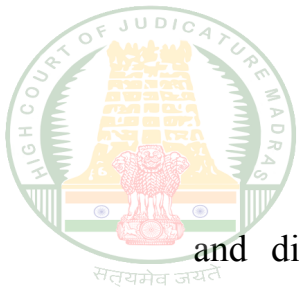
he is responsible to maintain the wife and children. However, the learned

Judge, Family Court has contrarily observed as if, the petitioner voluntarily deserted the respondent/husband without any strong reason, which is against the fundamental principle and also settled proposition. Therefore, the revision has to be allowed and the order passed by the Family Court is liable to be set aside.

4. Since no adverse order is being passed against the respondent, notice to the respondent is dispensed with.

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

6. It is seen that the marriage between the petitioner and the respondent is admitted. They are blessed with two children and for one or other reasons, the matrimonial got broken and they are living separately. At this juncture, the petitioner/wife filed a maintenance along with the minor children. Though the Judge, Family Court, on finding that the children are entitled to maintenance



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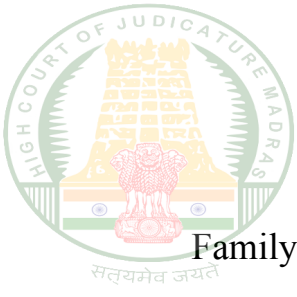
and directed the respondent to pay maintenance to the minor children,

dismissed the petition as against the petitioner/wife.

7. Admittedly, the respondent/husband had filed HMOP for divorce and the same is pending before the competent Court. Since the respondent has taken the allegation of adultery and separation, the Judge, Family Court has refused to grant maintenance to the petitioner/wife. Further, without taking evidence in the matrimonial O.P., the Judge, Family Court has made observation in the maintenance case that "the petitioner/wife has been residing separately from her husband without any strong reasons".

8. Since the matrimonial O.P. is pending before the competent Family Court, **the said observation made by the Judge, Family Court, in M.C.No.12 of 2023, is set aside.**

9. However, this Court is not inclined to interfere with the order of refusal of maintenance to the petitioner/wife. Since the matrimonial O.P. is pending before the competent Court, the petitioner is at liberty to approach the



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Family Court for maintenance under Section 25 of the Hindu Marriage Act and

the petitioner is also at liberty to file a petition for interim maintenance invoking Section 24 of Hindu Marriage Act.

10. While dealing with those application, the Judge, Family Court shall decide the same on merits and in accordance with law without being influenced by the observations made either in the maintenance case or in this revision.

11. With the above observations, this Criminal Revision Case is disposed of.

01.04.2025

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No
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To
The Family Court,
Tiruvallur.



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P.VELMURUGAN. J.

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