



CRP.No.1723 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 08.07.2025

Order pronounced on : 01.08.2025

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.1723 of 2025
& CMP.No.9946 of 2025

A.Gopal

..Petitioner

Vs.

C.Vijayalakshmi

..Respondent

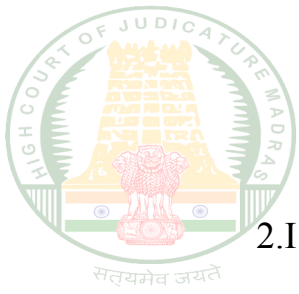
Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and final order dated 19.06.2023 made in I.A.No.533 of 2018 in F.C.O.P.No.34 of 2018 on the file of the Family Court, Erode, Erode District.

For Petitioner : Mr.V.Rajesh

For Respondent : Mr.S.Mohanasundararajan

ORDER

The revision is at the instance of the husband, who has suffered an order directing him to pay interim maintenance to his wife and two children.

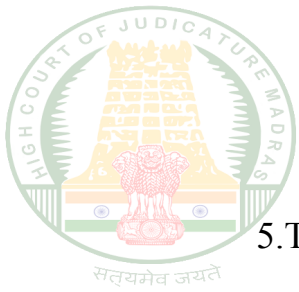


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2.I have heard Mr.V.Rajesh, learned counsel for the petitioner/husband and Mr.S.Mohanasundararajan, learned counsel for the respondent/wife.

3.The learned counsel for the petitioner would submit that pending F.C.O.P.No.34 of 2018 filed by the wife, for dissolution of marriage on the ground of alleged cruelty, the wife had filed an application in I.A.No.533 of 2018 claiming an interim maintenance of Rs.1,50,000/- per month (Rs.50,000/- each) for herself and two children, besides litigation expenses of Rs.50,000/-. The said application was resisted by the petitioner contending that his gross income was only Rs.6,80,086/- per annum and that he has taken care of the entire educational expenses of both his children, which itself was approximately about Rs.4,40,000/- per year.

4.The learned counsel for the petitioner would further submit that apart, the petitioner has voluntarily paid a sum of Rs.20,000/- to the wife and not satisfied with all these, according to the petitioner, the wife has not only filed the application for interim maintenance claiming the amount of Rs.1,50,000/- but also chosen to file maintenance case in M.C.No.29 of 2019 before the file of the Family Court, Erode, which is also pending.



5.The learned counsel for the petitioner would further state that the Trial Court has awarded an interim maintenance of Rs.45,000/- per month (Rs.15,000/- each) to the respondent and two children and the litigation expenses of Rs.5,000/-. He would first and foremost contend that the children are not parties to the proceedings and they are not minors and under Section 24 of the Hindu Marriage Act, interim maintenance contemplated is only for a spouse and not for children. The learned counsel for the petitioner would further state that admittedly when both the children have attained the age of majority, they are not entitled to claim interim maintenance, especially when the entire educational expenses have been taken care of by the husband only. He would therefore pray for modifying the order of interim maintenance of Rs.45,000/-.

6.Per contra, the learned counsel for the respondent would submit that as a father, the petitioner is bound to maintain children, even though they have become major. He would rely on the decision of the Hon'ble Supreme Court in *Parvin Kumar Jain Vs. Anju Jain*, reported in (2025) 2 SCC 227 and also the decision of this Court in *Kalidas Deepak Vs. Manjusha* in CRP.(PD).No.3940 of 2024 dated 14.10.2024. The learned counsel for the respondent would further state that the Act requires the father to maintain the children till they become



independent and capable of earning for themselves and standing on their own

legs. He would therefore state that the order passed by the Trial Court does not

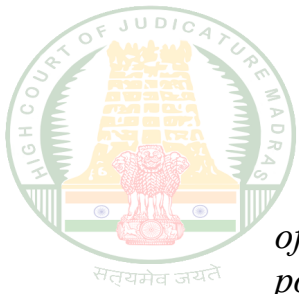
warrant any interference.

7. There is no quarrel with regard to the fact that the children born to the petitioner and the respondent have attained the age of majority. The question is whether they would still be entitled to claim maintenance through their mother under Section 24 of the Hindu Marriage Act. In order to appreciate the legal position, Sections 24 and 26 of the Hindu Marriage Act is extracted hereunder for useful reference.

“24. Maintenance pendente lite and expenses of proceedings.- Where in any proceeding under this Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the court to be reasonable:

[Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband, as the case may be.]

26. Custody of children.- In any proceeding under this Act, the court may, from time to time, pass such interim orders and make such provisions in the decree as it may deem just and proper with respect to the custody, maintenance and education



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of minor children, consistently with their wishes, wherever possible, and may, after the decree, upon application by petition for the purpose, make from time to time, all such orders and provisions with respect of the custody, maintenance and education of such children as might have been made by such decree or interim orders and provisions previously made:

[Provided that the application with respect to the maintenance and education of the minor children, pending the proceeding for obtaining such decree, shall, as far as possible, be disposed within sixty days from the date of service of notice on the respondent.]”

8.The object of Section 24 is only to ensure that either of the spouses, if having no independent income sufficient to support themselves, including the expenses of the legal proceedings, then the Court may order such amounts to be paid having regard to the income of the parties. Therefore, from the language of Section 24, it is very clear that the Section contemplates payment of *pendente lite* maintenance and litigation expenses only for the spouse, namely either the wife or the husband. Section 26 deals with custody of children. However, the proviso to Section 26 enables an application to be taken out for the maintenance and education of minor children, pending the proceeding and any such application is directed to be disposed of within a period of 60 days. This provision deals only with payment of maintenance to minor children to meet their educational and other expenses. It is only under the Hindu Adoptions and Maintenance Act, 1956, more specifically Section 20 which casts a liability



to maintain th children. Section 20 of the Hindu Adoptions and Maintenance

Act, 1956 is extracted hereunder for easy reference:

“20.Maintenance of children and aged parents.-(1) Subject to the provisions of this Section a Hindu is bound, during his or her lifetime, to maintain his or her legitimate or illegitimate children and his or her aged or inform parents.

(2) A legitimate or illegitimate child may claim maintenance from his or her father or mother so long as the child is a minor.

(3) The obligation of a person to maintain his or her aged infirm parent or a daughter who is unmarried extends in so far as the parent or the unmarried daughter, as the case may be, is unable to maintain himself or herself out of his or her own earning or other property.”

9.Even under Section 20(2), the maintenance that may be claimed by a child is available so long as the child is a minor. However, under Section 23, the obligation to maintain a daughter who is unmarried extends until such time the daughter is able to maintain herself out of her own earnings or other property. Therefore, in both the enactments, namely, the Hindu Marriage Act as well as the Hindu Adoptions and Maintenance Act, there is no express provision enabling the wife to seek maintenance for her major children.

10.Admittedly, the application has been taken out under Section 24 of the Hindu Marriage Act. The major children are not parties to the proceedings. The



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children of the petitioner and the respondent have also not come forward seeking maintenance under any of the enactments discussed hereunder.

11.In *Parvin Kumar Jain's case*, the Hon'ble Supreme Court held that the husband has a legal obligation to maintain the wife even after dissolution of the marriage and taking note of the fact that the son had completed his B.Tech course and was residing with the mother and has become a major, the Hon'ble supreme Court, considering the facts of that case and totality of circumstances therein, directed a one time settlement for the wife as well as the son, holding that it was equitable and obligatory for a father to wife or children and even though son was a major, taking note of the fact that he has not secured any employment and mere completion of a degree would not guarantee gainful employment, the Hon'ble Supreme Court awarded a sum of Rs.1 crore towards maintenance and care of the son.

12.It is however to be noted that the Hon'ble Supreme Court had disposed of the civil appeals under Article 142 of Constitution of India and what was granted was permanent alimony to the respondent/wife and her son taking note of the financially well of position of the husband. The said decision does not lay down the proposition that the wife is entitled to invoke Section 24



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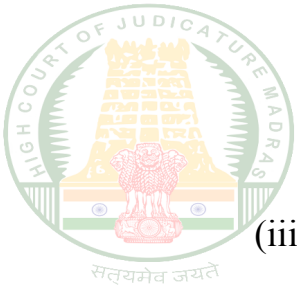
and seek interim maintenance pending divorce proceedings for not only herself but also her major children.

13.In *Kalidas Deepak's case*, this Court finding that the husband was a Captain in a Merchant Ship, enjoying a handsome salary of USD 10,600.00, confirmed the order passed by the Family Court awarding an interim maintenance of Rs.50,000/- for the wife and Rs.20,000/- for the child. In the said case, admittedly, the child was a minor. Therefore, I do not find these decisions coming to the rescue of the revision petitioner.

14.In the light of the above, I am inclined to interfere with the order passed by the Family Court and modify the same as hereunder:

(i) The Civil Revision Petition is partly allowed and the interim maintenance awarded to the major children at the rate of Rs.15,000/- each, is set aside.

(ii) Considering that even according to the petitioner, he has been paying Rs.20,000/- towards maintenance of his wife, the order of the Family Court fixing Rs.15,000/- for the wife is enhanced to Rs.20,000/- per month. The arrears at the rate of Rs.20,000/- shall be paid to the respondent from the date of filing of the petition under Section 24 of the Hindu Marriage Act, till date, within a period of four weeks.



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(iii) This order shall not come in the way of the children of the petitioner

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making an independent claim for maintenance as may be available to them in accordance with law. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

01.08.2025

Speaking/Non-speaking order

Index : Yes/No

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To

1.The Family Court, Erode.



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P.B.BALAJI.J.

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Pre-delivery order made in
CRP.No.1723 of 2025
& CMP.No.9946 of 2025

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