

CRP.No.2382 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 06.08.2025

Order pronounced on : 22.08.2025

CORAM

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

CRP.No.2382 of 2024
& CMP.No.12514 of 2024

B.Bala Vivek

..Petitioner

Vs.

N.Pavithra

..Respondent

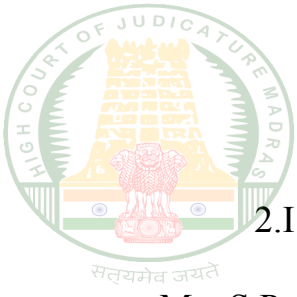
Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the impugned interim order dated 24.07.2023 made in I.A.No.1 of 2022 in O.P.No.3718 of 2022 passed by the learned III Additional Principal Family Judge, Chennai.

For Petitioner : Mr.M.Govindaraju

For Respondent : Ms.S.P.Arthi

ORDER

The husband in matrimonial proceedings, aggrieved by the order of interim maintenance awarded to the respondent, is before this Court.



2.I have heard Mr.M.Govindaraju, learned counsel for the petitioner and

Mrs.S.P.Arthi, learned counsel for the respondent.

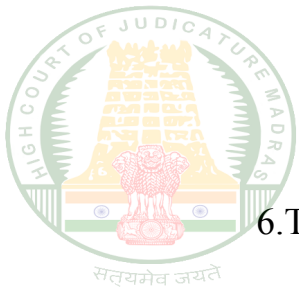
3.The learned counsel for the petitioner would submit that the parties were married on 28.08.2008 and they have been blessed with two children, who are now aged about 16 years and 12 years respectively. Admittedly, the custody of the minor children is with the mother, the wife / respondent herein. It is the case of the petitioner that the residential property was jointly purchased in the name of the petitioner and the respondent. However, the petitioner/ husband was forcibly sent out of the said house on 01.09.2021. Insofar as the funds for purchase of the said property, the learned counsel for the petitioner states that a bank loan was availed off and right from the date of the acquisition of the property and mortgage being availed, it is only the petitioner, who has been servicing EMI's. In view of the fact that the petitioner has been sent out of the matrimonial home, he has taken up a residential house on rent and the respondent / wife is residing comfortably in the residential house that belongs to both the petitioner and the respondent.

4.The learned counsel for the petitioner would further submit that the respondent is earning sufficiently and there was no requirement for seeking any



interim maintenance to be ordered. He would further state that insofar as the children, a sum of Rs.10,000/- each which has been ordered, is being regularly paid and there is no default. It is only the award of maintenance to the respondent / wife, which is challenged in the present revision petition.

5.The learned counsel for the petitioner, referring to the affidavits of assets and liabilities, would state that the respondent has admitted to a loan of Rs.44 lakhs having been availed by the petitioner from his father. Further, it is contended that despite his substantial income that accrues from various sources, the petitioner has to take care of his aged parents and also repay business loans, car loan as well as the property housing loan. Further, according to the learned counsel for the petitioner, when the respondent is doing business in artificial jewellery and earning well, under section 24 of the Hindu Marriage Act, the petitioner is not entitled to any award of interim maintenance. The learned counsel for the petitioner would further state that notwithstanding the award of interim maintenance in the Section 24 application, the petitioner has now moved a maintenance claim for the children and the said application is pending enquiry.



6.The learned counsel for the petitioner would also state that the petitioner has paid the school fees for the children and in view of the fact that he continues to pay the amount awarded by the Family Court, a sum of Rs.30,000/- awarded to the respondent / wife has to be necessarily set aside. He would therefore pray for the revision being allowed.

7.Per contra, Ms.S.P.Arthi, learned counsel appearing for the respondent / wife would first and foremost submit that in the counter filed by the petitioner to the interim maintenance application, there is not even a denial of the expenses being incurred for the maintenance of the respondent and the two minor children. Insofar as the claims of the petitioner regarding various loans, payment of school fees etc., the learned counsel would submit that all loans have been discharged already and nothing remains unpaid. With regard to the learned counsel for the petitioner pointing out from the affidavit of assets and liabilities of the respondent admitting the loan of Rs.44 lakhs, she would state that the statement / entry in the said affidavit of assets and liabilities is being misinterpreted by the learned counsel for the petitioner. She points out to the said entry and states that the loan referred to therein is only a loan availed of by the respondent from her father-in-law and not a loan taken by the petitioner from his father.

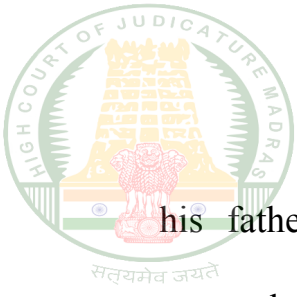


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8.The learned counsel for the respondent would also state that the respondent is a working mother and children being grown up, they require substantial amounts of money for even basic maintenance. Referring to the income that has accrued from even one bank account with IOB Bank, the learned counsel for the respondent states that between 04.01.2022 and 30.03.2023, the petitioner has an income of approximately Rs.7.5 crores. She would further state that though the Honourable Supreme Court has directed that such statements of assets and liabilities for a period of three years will have to be filed, on purpose the petitioner has burked the details in respect of the earlier periods insofar as IOB Bank account is concerned. Though, the learned counsel for the respondent would also state that the other bank statements are pertaining to three years, substantial monies have not come into the said accounts and only because the main bank account of the petitioner is with IOB, on purpose the petitioner has suppressed the bank details for the period prior to January 2022.

9.The learned counsel for the respondent would also state that the petitioner claims to be taking care of his aged parents on one hand, but however on the other hand, he contends that he has availed of a loan of Rs.44 lakhs from



his father. It is therefore the contention of the learned counsel for the respondent that the petitioner has blown hot and cold and no credence can be given to the self-serving statements made by him, which are only in order to deprive the respondent of the legitimate interim maintenance payable to her. She would also refer to the expenses that have been incurred by the petitioner and contend that the petitioner is living a lavish lifestyle and the respondent alone ought to have been aggrieved by the award of Rs.30,000/- alone as interim maintenance.

10.The learned counsel for the respondent would also contend that the payment of fees, which is relied upon by the respondent is only with regard to part of the fees payable for the two children, that too, excepting for one payment made towards school fees, the petitioner has not come forward to pay any amount thereafter. She would therefore pray for dismissal of the revision petition.

11.I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the order in IA.No.1 of 2022 passed by the III Additional Principal Family Court, Chennai, awarding a sum



of Rs.30,000/- to the respondent and a sum of Rs.10,000/- each to the two minor children from the date of filing of the petition under Section 24 of the Hindu Marriage Act.

12.The respondent herein claimed a sum of Rs.1,50,000/- for herself and Rs.1,00,000/- each to the minor son and minor daughter. The marriage between the petitioner and the respondent is not in dispute. The factum for joint purchase of a residential property and the wife and the children presently residing in the said property is also an admitted position. The respondent contended before the Family Court that the business in the name of Pavitra Jewellers was her business, but however, the petitioner has forcibly taken over the said business and has also independently started another gold and silver jewellery business and illegally transferred the respondent's property, namely gold and silver stock to the new business started by the petitioner. However, it is the contention of the petitioner that it was only the petitioner, who started the said jewellery business in the name of the respondent and not as contended by the respondent to start. However, in order to adjudicate the claim of interim maintenance, I do not find these allegations and counter allegations being very material.



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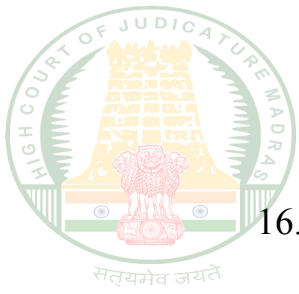
13.The respondent claims that she is unable to maintain herself and her children who are under her care and custody and therefore, the respondent has sought for maintenance of Rs.1,50,000/- for herself and Rs.1,00,000/- each to the minor children. The said application was resisted by the husband stating that the business of Pavitra Jewellers was started even in the year 2018 by the petitioner and his mother, who had invested Rs.30 lakhs by availing loan from the bank.

14.Relying on the assets and liabilities filed by the parties, the petitioner/ husband contended that he has been dutifully maintaining his wife and two minor children, showering love and affection on them and also provided not only all basic necessities but also luxuries and therefore, he is not liable to pay any interim maintenance as claimed by the respondent / wife. The Trial Court, after considering the affidavits of assets and liabilities filed by the respondent / wife and the income accruing from the business in imitation jewellery and Tanjore paintings at approximately Rs.30,000/- per month and considering the expenses of approximately Rs.1.5 lakhs for the respondent and the expenses at more than Rs. 1 lakh for the children and at the same time looking into the



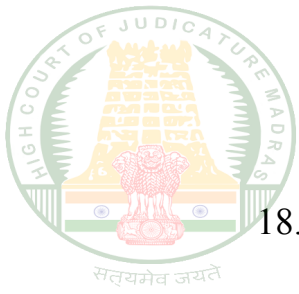
affidavit of assets and liabilities of the petitioner / husband and noticing the income of Rs.1,81,000/- per month from the business of Pavitra jewellers and also requirement of servicing the EMI for the residential property, the Family Court being satisfied that the respondent has established the income of the petitioner, and holding that as the husband and father, the petitioner has to maintain his wife and children, proceeded to order interim maintenance at the rate of Rs.30,000/- to the wife / respondent and Rs.10,000/- each to the minor children, in all Rs.50,000/- with a further direction to pay the entire arrears of interim maintenance within a period of two months.

15.Before filing the present revision, the petitioner challenged the said award of interim maintenance in CMA.No.2571 of 2023 and the division bench granted stay on condition that the petitioner pays a sum of Rs.20,000/- to the children up to date. However, subsequently in view of the decision in *S.Menaka vs KSK.Nepolian Socraties and others (Batch)* in 2024:MHC:1405 (*neutral citation*), finding that the CMA was not maintainable, liberty was granted to the petitioner to seek remedy under Article 227 of the constitution of India. Accordingly, the present revision petition came to be filed.



16. Section 24 of the Hindu Marriage Act entitles either of the spouses to move the Court seeking interim maintenance in the event of he or she not being in a position to maintain himself or herself and also spend for the litigation. It is only a measure of interim protection to enable the person who seeks interim maintenance to lead a basic and comfortable living. The maintenance can also be claimed for minor children who are under the care and custody of the petitioner who files the application under section 24 of the Hindu Marriage Act.

17. On going through the affidavit of assets and liabilities filed by the petitioner as well as the respondent, as rightly contended by the learned counsel for the respondent, the petitioner is earning substantial monies from business and also from chit fund transactions. No doubt, the amounts that are transacted in the bank accounts are substantial in nature, but at the same time, considering that the petitioner deals with gold and silver jewellery, the transactions that are reflected in the bank accounts and credit balance available cannot be taken as profit accruing to the petitioner. At the same time however, even assuming the petitioner is earning a small percentage by way of profits, even then the income accruing to the petitioner is still very substantial in nature.



18. Even insofar as the argument of the learned counsel for the petitioner that he has to take care of dependent and aged parents and he is also required to service several loans, as rightly pointed out by the learned counsel for the respondent, all the loans have been settled as can be seen from documents produced by way of typed set of papers. Further, on the one hand the petitioner claims that his parents are aged and dependent on him, however on the other hand it is the case of the petitioner himself that he has obtained a loan of Rs.44 lakhs from his father. In fact it is another matter altogether that the respondent states that it was she who borrowed Rs.44 lakhs from her father-in-law and not the petitioner. However, the fact remains that this only goes to show that the father is not dependent on his son.

19. Even with regard to the car loan and even insofar as the claims of loans borrowed from other persons, it is evident from the bank statement of the petitioner that all the loans have already been repaid. It is open to the petitioner to defend the maintenance claim and also bring to the notice of the Court that in the Section 24 application for interim maintenance a sum of Rs.50,000/- in all, has been awarded by the Family Court and also confirmed by this Court in the above revision.



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has again moved the Family Court seeking maintenance for the children and referring to the fanciful and arbitrary claims made in the said petition, in view of the ratio laid down by the Honourable Supreme Court in the *Rajnish vs Neha and Another*, reported in (2021) 2 SCC 324, there is no bar for the wife to seek maintenance in parallel proceedings. The Honourable Supreme Court has only held that, ultimately when the second or third claim is made before a different forum, the Court would have to factor the maintenance that is already awarded in the earlier/ other proceedings. Therefore, the mere filing of the maintenance claim and making fanciful and arbitrary claims in the said maintenance claim is not a relevant circumstance in deciding the present revision. It shall always be open to the petitioner to contest his said maintenance claim on its own merits and also bring it to the notice of the family court that in the Section 24 petition, the maintenance has already been ordered after enquiry and that the same is being paid, especially for the minor children. I do not find the award of Rs.30,000/- to the wife being arbitrary or excessive. In fact, as admitted even by the respondent / wife, she has a comfortable place to reside and the respondent resides along with the minor children in the property jointly purchased by the petitioner and the respondent, considering



that the respondent has to maintain herself and minor children and the income that accrues from her business is not sufficient, the family court has ordered a total sum of Rs.50,000/-. I do not find the said award being unreasonable or perverse, the award is certainly reasonable and the Family Court has passed an order after taking into account all material facts and circumstances, including the documents available before it. Therefore, I do not find any ground available to the petitioner to seek interference with the said well reasoned order of the Family Court.

21.In view of the above, the revision is dismissed and the petitioner shall pay the entire arrears of interim maintenance to the respondent / wife at the rate of Rs.30,000/- from the date of filing of the application before the Family Court namely from 12.07.2022, till date, within a period of four weeks from the date of copy of this order.

22.It is needless to state that the petitioner shall continue to pay the maintenance awarded by the Family Court and confirmed in this revision, until disposal of the HMOP.No.3718 of 2022 before the III Additional Principal Family Court, Chennai. The petitioner is at liberty to defend the fresh



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maintenance claim made by the respondent seeking maintenance for the minor children by way of independent proceedings.

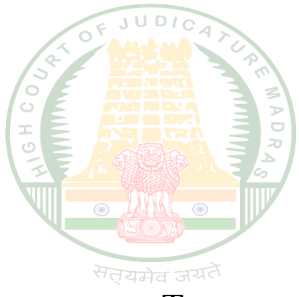
23.In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

22.08.2025

Speaking/Non-speaking order

Index : Yes/No

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To
The III Additional Principal Family Judge, Chennai.



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P.B.BALAJI.J.

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Pre-delivery order made in
CRP.No.2382 of 2024
& CMP.No.12514 of 2024

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