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C.R.P(PD)Nos.4281 and 4283 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.01.2025

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

C.R.P(PD)Nos.4281 and 4283 of 2024
and C.M.P.Nos.23812, 23816, 23823 of 2024

R.B.Sashirekha

... Petitioner in both CRPs

Vs.

S.Sridhar

... Respondent in both CRPs

COMMON PRAYER: These Civil Revision Petitions are filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 26.02.2024 made in I.A.Nos.4 and 5 of 2023 in O.P.No.414 of 2020 passed by the IV Additional Family Court, Chennai.

For Petitioner

:Ms.Vasudha Thiagarajan

For Respondent

: Ms.S.P.Aarthi

COMMON ORDER

These Civil Revision Petitions arise against the order passed by the learned IV Additional Principal Family Court at Chennai in I.A.Nos.4 and 5 of 2023 in O.P.No. 414 of 2020 dated 26.02.2024.



2.The Civil Revision Petitioner is the wife. For the sake of convenience the parties shall be referred to as husband and wife.

3.O.P.No.414 of 2020 was presented by the husband invoking Sections 13(1)(i)(a), 13(1)(i)(b) and 13(iii) of the Hindu Marriage Act. The husband and wife married each other on 06.12.2007. From the wedlock, a female child was born to the couple on 06.09.2008. Pleading that the wife had treated him with cruelty and also that pre-existing illness had been suppressed from him at the time of marriage, the husband presented the petition for divorce.

4.The wife entered appearance and she has filed a detailed counter. Thereafter, the wife took out applications in I.A.Nos.4 and 5 of 2023. I.A.No.4 of 2023 seeks the support of Section 24 of the Hindu Marriage Act, so does I.A.No.5 of 2023.

5.The wife pleaded that husband is earning about Rs.5 lakhs a month as a Senior Executive in a Multi National Company, and therefore sought for interim maintenance of Rs.1,50,000/-. In I.A.No.5 of 2023, she wanted Rs.1



lakh towards litigation expenses.

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6.On being served with the affidavit, the husband filed a detailed counter. Both the parties filed their affidavits of assets and liabilities as directed by the Supreme Court in ***Rajnesh V. Neha [(2021) 2 SCC 324]***.

7.The learned Trial Judge took up the application for disposal. The Trial Judge held that the expense of Rs.1,07,500/- sought by the wife has not been substantiated. She pointed out that the resignation letter of the wife had not been produced before the Court. This was on account of the fact the wife has conceded she was working in a company earlier. In addition, the learned Judge found since the wife is well qualified, and capable of earning for herself, she is not entitled for maintenance. On the same reasoning she dismissed the application for litigation expenses. Aggrieved by the said orders, the wife is on Revision before this Court.

8.I heard Ms.Vasudha Thiagarajan, for the petitioner and Ms.S.P.Aarthi for the respondent.



9.Both the counsels, apart from reiterating their respective contentions they placed before the Trial Court, invited my attention to the affidavit of assets and liabilities filed by their opponents and urged that the order of the Trial Court requires to be revised and that the same requires to be confirmed respectively.

10.I have carefully considered the submissions of both sides.

11.It is not in dispute that the husband, post tax, receives a sum of Rs.2,12,558/-. He is not only taking care of himself, but also of his mother and father and his child. While it is the duty of the husband to take care of his wife, taking care of his parents and his offspring cannot be said to be mutually exclusive to the former.

12.The basic allegation of the husband is that, the wife was suffering from mental illness even at the time she got married to him. This is a tacit admission that the wife requires constant medical treatment for the purpose of attending to her mental health. It is not disputed that the wife is currently residing in her brother's house. The brother too has a family and he is also



accommodating his mother in the same apartment. This Court has to take the notice of the natural course of events. It is plausible that, post the wedding of the brother the presence of the sister in law (the petitioner herein) in the same house might lead to friction in the otherwise smooth functioning of the former's family.

13.While the duty of the husband to maintain the wife is settled, the quantum that has to be fixed by the Court is discretionary. It is arrived at based on the standard of living, status and the earning capacity of the husband etc. Admittedly, wife being a patient (I am not going to delve into the issue whether she developed the sickness during the marriage or was already sick, as this is an issue which has to be addressed by the Trial Court after evidence), she is obviously going to incur a lot of expenses for medication. Being a wife of a Director in a Multi National Company, one cannot expect her to have a pedestrian life style. This position has also been settled by the Supreme Court in ***Dr.Rajiv Verghese V. Rosy Chakkramakkil Francis [(2024) SCC Online 3367]***.

14.In addition to the sum of Rs.2,12,558/- that the husband s salary



receives, the husband has fairly stated that his father is getting a pension of Rs.1 lakh. That being the position, I feel, if the amount of Rs.40,000/- is fixed as interim maintenance, payable by the husband to the wife, it would be in the interest of justice. With this amount, the wife cannot live in a lap of luxury, but at the same time, she would also not be cringing her pennies.

15.In so far as Section 24 of the Hindu Marriage Act is concerned, an earning spouse is not only liable to pay maintenance to the non earning spouse but also to pay an amount towards the litigation expenses incurred. The wife being unemployed, has to have a level playing field in order to withstand the onslaught of the divorce proceedings initiated by the husband.

16.In the light of the above discussion, I am inclined to pass the following order:

- i. the decretal orders passed by the Courts below in I.A.Nos.4 and 5 of 2023, dated 26.02.2024 are set aside;
- ii. the husband shall pay a sum of **Rs.40,000/- (Rupees Forty Thousand only)** as interim maintenance to the wife from September, 2023 onwards;



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iii. the arrears shall be paid in **four equitable instalments commencing from January 2025**; and

iv. the wife will be entitled to a **litigation expense of Rs.50,000/- (Rupees Fifty Thousand only)**, which will be paid in **two equitable instalments**.

17. These Civil Revision Petitions stand allowed accordingly. The learned Trial Judge is requested to confirm that the arrears have been paid, and once this confirmation is available before the Court, the proceedings in O.P.No.414 of 2020, which have already reached the stage of trial shall be expedited.

18. The interim arrangement of the mother to visit the child during the pendency of the revision, which was graciously agreed to by Ms.S.P.Aarthi, shall continue pending the O.P.No.414 of 2020. No costs. Consequently, the connected miscellaneous petitions are closed.

29.01.2024

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Index : Yes / No
Neutral Citation



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V.LAKSHMINARAYANAN, J.

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To

IV Additional Family Court
Chennai

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