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Crl.R.C.No.1756 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.04.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1756 of 2024
and
Crl.M.P.No.14419 of 2024
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Devaraj Kadavan (Deepu), S/o Sebastin Kadavan .. Petitioner

Vs.

1. Ranjana, D/o Mr.Rajagopal
2. Nidiya Raj Kadavan (minor), D/o Mrs.Ranjana.R.
(Respondent No.2 rep. by next friend
and natural guardian, mother, the 1st respondent)
3. Divya Raj Kadavan, D/o Mrs.Ranjana.R. .. Respondents

Criminal Revision Case filed under Section 438 read with 442 of
BNSS praying to set aside the order dated 22.04.2024 passed in
M.C.No.449 of 2019 on the file of Vth Additional Principal Family Court,
Chennai.

For petitioner : M/s.S.T.Bharath Gowtham

For respondents: Mr.R.Dinesh Kumar



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ORDER

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The revision petitioner has filed the present petition challenging the order dated 22.04.2024 passed in M.C.No.449 of 2019 on the file of the Fifth Additional Principal Family Court, Chennai.

2. The respondents (wife and children) have filed maintenance case against the revision petitioner/husband and after enquiry, the Family Court ordered Rs.10,000/- per month to the first respondent and Rs.6,000/- per month to the second and third respondents herein and Rs.10,000/- was directed to be paid for litigation expenses. Feeling aggrieved over the same, the present revision petition is filed by the husband.

3. Learned counsel for the revision petitioner submitted that though the wife and the two daughters have filed the maintenance petition before the Family Court, the second daughter is not in the care and custody of the mother (first respondent) and the second daughter is in the care and custody of the Child Welfare Committee and in proof of the same, Ex.R-5 is filed before the Court below, being the letter dated 11.10.2021 issued by the Child Welfare Committee (at Kottayam).

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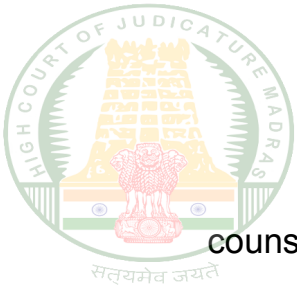
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4. It is the further contention of the learned counsel appearing for the revision petitioner/husband that the first respondent-wife admitted that one of the daughter, namely second respondent herein, is under the care and custody of the Child Welfare Committee and hence, the second respondent is not entitled for maintenance. The third respondent is under the care and custody of the first respondent-wife. Further, from Ex.R-3 (showing the heading as CONSENT), it is clear that third respondent had received Rs.4,73,000/- and hence, according to the learned counsel for the revision petitioner (husband), the third respondent is not entitled for maintenance. Further, the major daughter (third respondent) has also filed a case for maintenance stating that she is unable to maintain herself. Therefore, the third respondent is also not entitled for maintenance.

5. It is further stated by the learned counsel for the revision petitioner (husband) that the first respondent (wife) suppressed the income in the Statement of Assets and Liabilities and though the revision petitioner-husband purchased a vehicle in the name of the first respondent, who is using that vehicle, in the Statement of Asset and Liabilities, the wife has not disclosed the above factum of the vehicle and therefore, the learned

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counsel for the revision petitioner stated that the first respondent has suppressed the material facts and the respondents herein have not come to this Court with clean hands. Therefore, the impugned order of the Family Court is liable to be set aside.

6. Learned counsel for the respondents/wife and daughters, submitted that the revision petitioner/husband has not disclosed the actual assets and liabilities statements in his affidavit of assets and liabilities. Though he obtained the income certificate from the Tahsildar showing Rs.78,000/-, but the same has not been disclosed in the statement of assets and liabilities. At the time of filing of the maintenance case, both the daughters were only under the custody of the first respondent and one of the daughter is in the care and custody of the Child Welfare Committee. Though the revision petitioner/husband has taken a stand that the two daughters have got married, but they have not produced any proof and while considering the facts and circumstances of the case, the revision petitioner has not disclosed the actual assets and liabilities. The respondents are living separately and there is no perversity in the impugned order of maintenance and the present revision petition may be dismissed.

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8. The relationship between the parties is not in dispute. The paternity of the children is admitted. The revision petitioner/husband has not established that the first respondent/wife is a woman of means and she is able to maintain herself. Though the husband has stated that the vehicle stands in the name of the first respondent, but there is no material to show that the vehicle derived income, which is sufficient for the first respondent to maintain herself.

9. As far as the second respondent is concerned, though the first respondent has admitted that she has now attained majority, there is no material produced on record to show that she is disqualified from getting maintenance. But however, the revision petitioner has marked one document to show that the second respondent received lump-sum amount, which is only for relinquishing her right from the property and there is no material to show that the second respondent is a woman of means to maintain herself. However, the third respondent admitted that she is under the care and custody of the Child Welfare Committee and in the impugned

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order, the Family Court failed to consider the same.

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10. Therefore, on a reading of the entire materials available on record and also the statement of assets and liabilities filed by the revision petitioner, it is clear that the revision petitioner/husband has not disclosed the actual statement of assets and liabilities and suppressed the same and in order to avoid payment of maintenance, the revision petitioner/husband has not disclosed the actual statement of assets and liabilities.

11. Since the revision petitioner/husband has not established the disqualification of the respondents 1 and 2 from claiming maintenance, he is liable to pay the maintenance as ordered by the Family Court. However, the first respondent/wife herself admitted that the third respondent is not under the care and custody of the revision petitioner and she is under the custody of the Child Welfare Committee. Accordingly, the impugned order of the Family Court, ordering maintenance to the third respondent alone is set aside.

12. This revision petition is partly allowed and the revision petitioner/husband is directed to pay the arrears, if any, to the

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respondents, within a period of three months from the date of receipt of a copy of this order. The Family Court is directed to take steps to execute the order passed by this Court now.

13. The miscellaneous petition is closed.

07.04.2025

CS

To

1. The Vth Additional Principal Family Court, Chennai.
2. The Section Officer, Criminal Section - Records Wing, High Court, Madras.



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P.VELMURUGAN, J

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