



C.R.P.No.3864 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.No.3864 of 2024

Carolyn Rebacca

...Petitioner

Vs

Shylander Sweetson

...Respondent

PRAYER :- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to allow this Civil Revision Petition by enhancing the interim maintenance amount awarded to the petitioner vide the interim order dated 03.08.2024 in F.C.I.A.No.2 of 2024 in F.C.I.O.P.No.427 of 2023 on the file of the Family Court, Chengalpattu, from Rs.7000/- to Rs.40,000/- as prayed for and thus render justice

For Petitioner : Mr.M.Arun

For Respondent : Mr.M.Andrew Vivek

ORDER

The above Civil Revision Petition has been filed by the wife who is the petitioner in an application filed under Section 36 of the Indian Divorce Act, seeking an interim monthly maintenance from the



C.R.P.No.3864 of 2024

respondent husband.

WEB COPY 2.The petitioner herein had filed F.C.I.D.O.P.No.427 of 2023

against the respondent seeking restitution of conjugal rights. Pending I.D.O.P. she had taken out an application under Section 36 of Indian Divorce Act, seeking a monthly maintenance of Rs.40,000/- in F.C.I.A.No.2 of 2024. It is her contention that the respondent husband who had married her on 21.12.2005 as per Christian rites and customs was working as a Commercial Inspector in the Tamil Nadu Electricity Board. He was earning a monthly salary of Rs.86,000/- and the petitioner is a Home Maker who was fully dependent on the respondent. The petitioner would submit that from 2005 till about two months prior to the filing of the petition for restitution of conjugal rights she was leading a happy matrimonial life. All of a sudden due to certain differences, the respondent, when the petitioner was away visiting her ailing grandmother had vacated the house where he was staying with the petitioner and removed all the household articles on 08.03.2023. This was a shock to the petitioner who had been living with the respondent for over seventeen years. The dispute between the two arose on account of one Hellen Deva Kirubai, a colleague of the respondent with whom the respondent developed intimacy. The petitioner on coming to know about



C.R.P.No.3864 of 2024

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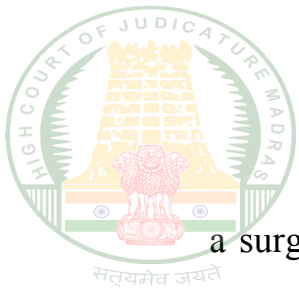
C.R.P.No.3864 of 2024

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with the respondent and was waiting for him to call her back. Despite the issue of the notice since he had not come forward to take her back, the petitioner had filed the aforesaid I.D.O.P. For restitution of conjugal rights.

3.The petitioner would submit that now she is entirely depending on her parents and siblings for meeting her day to day maintenance. The respondent who is her husband and duty bound to maintain her has deserted her. Therefore, she had come forward with this petition.

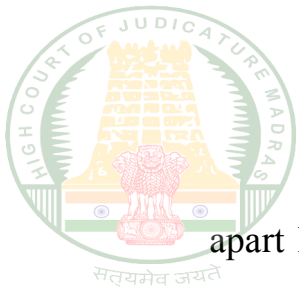
4.The respondent had filed a counter *inter alia* denying the allegations in the petition he would submit that he has filed an application for divorce on the ground of cruelty in O.P.No.186 of 2023. He would submit that they had lived happily only for a few months. In the year 2006, within a few months of the marriage, the petitioner had compelled him to set up a separate home and having no other option in order to pacify her he accepted to set up a separate home and was living away from his parents from the year 2006. The respondent would submit that as a dutiful husband he had taken care of the needs of the petitioner. Since they did not have children there were frequent misunderstandings between the petitioner and the respondent. The petitioner had undergone



C.R.P.No.3864 of 2024

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a surgery but still unable to bear a child. The respondent would submit that the petitioner would verbally and physically abusing. She was also in the habit of threatening to commit suicide. Many a time he was locked out of the house and had to beg the petitioner to open the door and permit him to enter the house. To avoid these quarrels, the respondent had moved to another room in the house. The respondent would submit that all along he had been giving his entire earnings to the petitioner who was maintaining the house. In the year 2022, when she had fallen sick and the respondent had taken over all expenses of the family, he was shocked to learn that all these years his hard earned money was being spent on the petitioner's mother and brothers. When he questioned this, the petitioner turned violent. The respondent's sister is the widow and has three children and whenever he wanted to help them, the petitioner would fight with the respondent and not allow him to help his sister and at the same time she has been spending the money on her family. The respondent would submit that, that apart the petitioner had compelled him to arrange a loan for sum of Rs.3,50,000/- for her elder brother and the EMI has been deducted from his salary and the petitioner's brother has not even paid a single EMI, though he had promised to do so. Another Rs.2,00,000/- has borrowed for the petitioner's sister's marriage and that



C.R.P.No.3864 of 2024

apart he had given his car to his petitioner's younger brother. When the respondent had demanded return of the loan, he was threatened by the petitioner and her family members. The respondent would submit that the petitioner has been causing trouble for him at his workplace, the Church and the residence as well. The respondent would submit that his attempts to pacify the petitioner at her parent's house on 24.11.2022, did not yield the desired results as her mother and brother had physically assaulted the respondent and had used derogatory words against him. On 03.01.2023, the petitioner's relatives as well as the respondent's relatives had met at Ranipet and had decided that both of them should live separately for three months to defuse the situation. However, the petitioner was constantly giving complaints to his superior officers in TNEB and harassing him to give half of his salary to her. He had issued a legal notice calling upon the respondent to rejoin him. However, in response to this legal notice the petitioner had lodged a criminal complaint raising all kind of false instances of domestic violence and illicit relationship with other women. The Police investigated and found these allegations to be baseless and advised the petitioner to rejoin the respondent.

5.The long and short of the counter was that the respondent was



C.R.P.No.3864 of 2024

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not in a position to rejoin the petitioner on account of her behavioural issues. It is also his contention that he was only receiving a salary of Rs.30,000/-after deducting amounts towards car loan, personal loan, online loan and hand loan etc. He had to take care of his father, his sister and her three children. Therefore, the petitioner who had extracted all his money leaving nothing for the respondent was not entitled to the maintenance. The learned Judge after hearing the parties and perusing the records awarded a sum of Rs.7,000/- as monthly maintenance. Aggrieved by the same, the petitioner wife has come forward with this Civil Revision Petition seeking an enhancement of compensation.

6.Heard the learned counsels on either side and perused the records.

7.The respondent herein had filed an affidavit of assets and liabilities in which he has himself stated that he requires a sum of Rs.35,000/- which included household expenses, medical bills, transportation etc. He would also show his father, his 47 year old sister and major children of his sister as his dependants. His affidavit of assets and liabilities would further show a sum of Rs.35,000/- as expenses for



C.R.P.No.3864 of 2024

these dependants. Admittedly the respondent is employed with the Tamil Generation and Distribution Corporation Limited earlier known as Tamil Nadu Electricity Board and the pay slip for the month of January 2023 would show gross salary of Rs.86,556/- and after deduction the net salary is a sum of Rs.62,823/-. Even according to the respondent's own submission he requires a sum of Rs.35,000/- for his expenses. The Lower Court has ordered only a sum of Rs.7000/- to the petitioner. The sister and her children cannot be shown as an excuse for not maintaining the wife. Therefore, considering the income of the respondent a sum of Rs.7000/- which has been awarded is too meagre. Therefore, the Civil Revision Petition is allowed and the interim maintenance is enhanced to a sum of Rs.15,000/- per month. No costs.

13.03.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
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To



C.R.P.No.3864 of 2024

The Family Court, Chengalpattu,
WEB COPY

P.T.ASHA, J,

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C.R.P.No.3864 of 2024



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C.R.P.No.3864 of 2024

13.03.2025