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Crl.RC.No.1734 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.1734 of 2024 and

Crl.M.P.No.14260 of 2024

Ajeesh Kumar S

... Petitioner

Vs.

1. Shilaja T R

2. Shreya Ajeesh (Minor)

Rep. by her mother and natural
guardian, the 1st respondent

... Respondents

Prayer: Criminal Revision Case filed under Section 438 and 442 of the B.N.S.S. to set aside the order dated 19.07.2024 in M.P.No.226 of 2023 in M.P.No.731 of 2021 in M.C.No.195 of 2021 passed by the learned IIIrd Additional Family Court at Chennai.

For Petitioner : Mr.Ajay Francis Inigo Loyola

For Respondents : Mr.Rahul Jagannathan



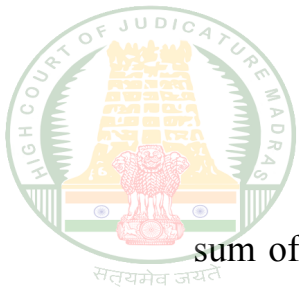
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ORDER

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This Criminal Revision Case has been filed by the petitioner to set aside the order dated 19.07.2024 in M.P.No.226 of 2023 in M.P.No.731 of 2021 in M.C.No.195 of 2021 passed by the learned IIIrd Additional Family Court at Chennai.

2. The brief facts of the case is that the first respondent is the wife and the second respondent is the daughter of the petitioner herein. The first respondent/wife filed a petition in O.P.No.2165 of 2020 before the IIIrd Additional Family Court at Chennai for divorce on the ground of cruelty and the petitioner/husband filed a petition for divorce on the ground of adultery in O.P.No.1351 of 2021 and pending at the stage of enquiry, the first respondent/wife filed a maintenance case along with the second respondent/daughter in M.C.No.195 of 2021. Subsequently, she filed a petition in M.P No.731 of 2021, seeking interim maintenance and the same was partly allowed by order dated 16.11.2022 directing the petitioner/husband to pay a



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sum of Rs.30,000/- to the first respondent/wife and Rs.15,000/- to the second

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respondent/daughter from the date of filing of the petition and till disposal of O.P. and a sum of Rs.50,000/- was ordered to be paid towards litigation expenses. Subsequently, the respondents filed a petition for perjury in M.P.No.226 of 2023 under Section 195(1)(b)(i) read with Section 195 of Cr.P.C. seeking to conduct a preliminary enquiry and to refer the complaint to the jurisdictional first class Judicial Magistrate stating that the petitioner/husband disclosed false informations in his affidavit of assets filed in the maintenance proceedings. The said petition was allowed by order dated 19.07.2024. Challenging the same, the husband has filed the present revision.

3. The learned counsel for the petitioner/husband submitted that the first respondent/wife has approached the Court with unclean hands for perjury due to her personal vendetta and malafide intent. The petitioner/husband has not deliberately made falsehood and he has no intent to affect the administration of justice. The petitioner/husband has not filed any false statement in the affidavit



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of assets and liabilities statement and he has given statement as per income tax

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returns. His erstwhile counsel filed the adoption memo in M.P.No.731 of 2021

and the signature found in the adoption memo is not that of the

petitioner/husband. The petitioner/husband had not understood the format of

assets and liabilities and his earlier counsel had not expressed about the same.

He further submitted that there are multiple proceedings pending between the

parties. The petitioner/husband has also filed a petition for divorce on the

ground of adultery in O.P.No.1351 of 2021. The first respondent/wife is

leading adulterous life and pending maintenance case, she also got second

marriage on 22.08.2021 i.e. during subsistence of her lawful marriage with the

revision petitioner. Therefore, against the order of interim maintenance, the

petitioner/husband filed a petition in M.P.No.114 of 2023 in M.P.No.731 of

2021 in M.C.No.195 of 2021 invoking Section 127 Cr.P.C. read with 151

Cr.P.C. before the Family Court to cancel the order of interim maintenance

dated 16.11.2022 from the date of re-marriage of the first respondent/wife and



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for return of the litigation cost of Rs.50,000/-. Therefore, in order to protract

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the maintenance proceedings as well as the divorce case, the first respondent/wife filed the petition in M.P.No.226 of 2023 for perjury and unfortunately, the Family Court allowed the same. The Judge, Family Court failed to consider that an observation made in a parallel proceedings cannot be painted with a criminal color. The Judge, Family Court also failed to understand the format and appreciate that Column "F" is applicable to salaried employees, whereas Column 'I' is for businessmen and that the petitioner/husband falls under the later category. The learned Judge, Family Court has gone beyond the complaint filed by the first respondent/wife and arrived at her own observations beyond the pleadings which is unacceptable. Therefore, the present revision petition is filed. However, the learned counsel for the petitioner submitted that pending this revision, the main case in M.C. No.195 of 2021 has been disposed of on merits directing the petitioner/husband to pay Rs.60,000/- per month to the second respondent/daughter alone and

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since the copy of the said order has not been received, the same has not been challenged so far.

4. The learned counsel for the respondents submitted that the petitioner/husband in order to mislead the Court, filed false statements in his affidavit of assets and liability statement filed before the Family Court in the maintenance proceedings. The same has also been recorded in Paragraph No.9 of the interim maintenance order passed in M.P.No.731 of 2021 in M.C.No.195 of 2021 that the respondent in his affidavit of assets and liabilities stated that he is earning Rs.19,354/- whereas, in para (a) of the affidavit of assets and liabilities, he has averred that his total monthly expenses comes around 1,71,495/- and when the respondent earns a sum of Rs.19,354/-, it is impossible to spend a sum of Rs.1,71,495/-. The learned counsel further submitted that since the petitioner had not approached the Court with clean hands, in order to bring the truth to the Court to render substantial justice, the respondents filed the petition for perjury and the learned Judge, Family Court,



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by appreciating the materials and the statement of assets and liability filed by

the petitioner/husband, found that the petitioner/husband had not provided corrected statement of assets and liability and since he tried to mislead the Court by filing false affidavit of assets and liability, the learned Judge, allowed the said petition. Therefore, there is no merits in this revision and the same is liable to be dismissed.

5. Heard both sides and perused the materials available on record.

6. According to the respondents, the the petitioner/husband in order to mislead the Court, gave false statements in his affidavit of assets and liability statement filed before the Family Court in the maintenance proceedings and the same has also been recorded by the Judge Family Court in the interim maintenance order in M.P.No.731 of 2021 in M.C.No.195 of 2021. However, it is only an interlocutory order. Further, it is seen that there are matrimonial proceedings pending. As per Hindu Marriage Act, when a Matrimonial O.P. is pending, there is a provision under Section 24 of the Hindu Marriage Act for



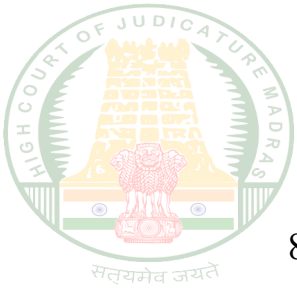
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interim maintenance and Section 25 of the Act provides for permanent alimony

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and without invoking the same, pending O.P., the wife has filed petition for maintenance invoking Section 125 Cr.P.C. and also filed a miscellaneous petition for interim maintenance. Even assuming that the petitioner filed a false statement in the affidavit of assets and liability statement, it is for the Judge, Family Court to conduct enquiry and if the Family Court finds that the petitioner filed false materials in order to get a judgment in his favour, the Court can always proceed further invoking Section 195(1)(b)(i) read with Section 340 of Cr.P.C. However, initiating proceedings under Section 195(1)(b)(i) of Cr.P.C. is not an offence. The petitioner will be given opportunity to give his explanation and defend the case for getting justice.

7. Further, it is seen that pending this revision petition, the main maintenance case in M.C. No.195 of 2021 itself has been disposed of by the Family Court on merits. Therefore, this Court is not inclined to entertain this revision.



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8. Accordingly, this Criminal Revision Petition is dismissed.

Consequently, the connected Miscellaneous Petition is closed.

9. The petitioner is at liberty to take all his defence in the pending proceedings.

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No
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To

The IIIrd Additional Family Court at Chennai.



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P.VELMURUGAN. J.

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