



Crl.R.C.No.2246 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.03.2025

Coram:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

Crl.R.C.No.2246 of 2023 &
Crl.M.P.No.20073 of 2023

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U.Thiyagarajan

.. Petitioner

Vs.

1.Hemalatha
2.Mahalakshmi

.. Respondents

Criminal Revision Case filed under Section 397 read with Section 401 of Cr.P.C., 1973, to set aside the order passed in M.C.No.3 of 2014, dated 25.06.2014, on the file of the IV Additional Family Court, Chennai, by allowing this revision.

For Petitioner : Mr.K.Gandhi Kumar

For Respondents : Mr.R.Sreedhar

ORDER

The petitioner/husband has filed this criminal revision petition challenging the order dated 25.06.2014 passed by the learned IV Additional Principal Judge, IV Additional Family Court, Chennai, in M.C.No.3 of 2014.

2. The short facts of the case are as follows:-



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The marriage between the petitioner/husband and the first respondent/wife was solemnized on 29.10.2006 at Arcot as per Hindu rites and customs. A female child, the second respondent/daughter, was born out of the said wedlock on 10.06.2008. The first respondent/wife alleged that after the birth of the child, the petitioner and his family subjected her to physical and mental cruelty and restricted her from providing proper food and care to the child. The petitioner and his family allegedly forced her to terminate her second pregnancy, and due to the harassment, she consumed poison and was admitted to Apollo Hospital, Visharam. Despite a panchayat being held and the petitioner setting up a separate residence, the harassment continued, which led the first respondent to file a complaint under the Domestic Violence Act, which is still pending. Thereafter, the first respondent filed M.C.No.3 of 2014 under Section 125 Cr.P.C. before the IV Additional Family Court, Chennai, seeking maintenance, stating that she has no independent source of income. She alleged that the petitioner owns two factories, receives rental income from several properties, and earns approximately Rs. 2,00,000/- per month.

3. The petitioner/husband denied all allegations except the marriage and the birth of the child. He stated that the first respondent was given only 14 sovereigns of gold jewels at the time of marriage and not 25 sovereigns, as claimed. He further stated that his family bore all marriage expenses. The petitioner denied restricting the first respondent from feeding the child or forcing her to undergo an abortion. He claimed that the first respondent voluntarily left the matrimonial home in September



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2011 without any valid reason and refused to return despite repeated attempts for reconciliation. The petitioner stated that he holds a 20% partnership in Umashankar Industries, which is run by his father, and his income from the business was Rs.40,667/- for the year 2013–14 and Rs.41,475/- for the year 2014–15, amounting to approximately Rs.3,500/- per month. He denied owning any immovable property or having any additional source of income and alleged that the first respondent filed false criminal complaints against him and his family members to harass them.

4. The learned Judge of the IV Additional Family Court, after considering the evidence and submissions, concluded that the first respondent had valid reasons to live separately due to the cruelty and harassment faced at the hands of the petitioner and his family. The learned Judge, considering the financial capacity of the petitioner and the cost of living, directed the petitioner to pay Rs.5,000/- per month to each of the respondents (a total of Rs. 10,000/- per month), with an increase of Rs. 500/- per year, and to pay Rs. 10,000/- towards litigation costs.

5. Challenging the order passed by the learned IV Additional Family Judge, Chennai, the petitioner/husband is before this court by way of this Revision.

6. The learned counsel for the petitioner would submit that the order on the grounds that the first respondent left the matrimonial home without any valid



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reason, which bars her from claiming maintenance under Section 125(4) Cr.P.C. He

contended that the trial court failed to direct both parties to file statements of assets and liabilities as per the guidelines of the Hon'ble Supreme Court and that the court erred in assessing the petitioner's income without proper evidence since the petitioner clearly stated that he was earning only Rs.3,500/- per month. He argued that the annual increase of Rs.500/- in maintenance is not permissible under Section 125 Cr.P.C. The petitioner also contended that his business was severely affected by the COVID-19 pandemic, forcing him to work for daily wages due to financial hardship. He submitted that he was imprisoned due to his inability to pay the maintenance despite his health issues and financial constraints.

7.The learned counsel for the respondents argued that the petitioner has sufficient means to pay the maintenance awarded by the trial court. He submitted that the petitioner intentionally concealed his actual income and misrepresented his financial position. The learned counsel submitted that the petitioner's 20% share in the family business generates substantial income, and the properties owned by the petitioner and his family provide additional financial support. With regard to the petitioner's claim of financial hardship due to the COVID-19 pandemic, the learned counsel contended that the petitioner failed to produce any concrete evidence to substantiate his alleged loss of income. Therefore, the learned counsel prays to confirm the order passed by the learned Judge, IV Additional Family Court, Chennai.

8. Heard the learned counsel for both parties and perused the records.



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9. The relationship between the parties is admitted and not in dispute. A perusal of the records shows that although the petitioner holds a share in a family business and possesses valuable property, there is no concrete evidence of his exact income. However, the learned Judge considered the fact that the petitioner has experience as a welder and could earn at least Rs.750/- per day, amounting to approximately Rs. 20,000/- to Rs. 25,000/- per month. Furthermore, the respondent owns a house and lives in a joint family. The petitioner has minimal personal expenses, as his father is also a businessman and his parents are not financially dependent on him. In the considered opinion of this Court, the sum arrived at by the learned Judge is fair and proper, considering the petitioner's earning capacity, financial position, and the overall cost of living. Though the petitioner has claimed that he is unemployed, there is no material evidence to establish that he is without sufficient means. The mere assertion of financial difficulty, including the impact of the COVID-19 pandemic, is not sufficient to discharge the petitioner from his legal obligation to provide maintenance to his wife and child. The duty to provide for one's spouse and child is an ongoing legal responsibility that cannot be avoided on the ground of unsubstantiated financial difficulties. Considering the facts and circumstances of the case, the amount of maintenance fixed by the trial court is reasonable and justified, taking into account the cost of living and the petitioner's financial capacity. Therefore, the order of maintenance passed by the learned trial Judge is confirmed, and no ground is made out to interfere with the same.



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10. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No



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The IV Additional Family Court, Chennai



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