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Crl.R.C.No.2028 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.04.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.2028 of 2024
and
Crl.M.P.No.16477 of 2024

Elamparithi, S/o R.Murthy

.. Petitioner

Vs.

1. Rajeswari, D/o Ramachandran

2. Minor Karthika, rep. by her mother and

natural Guardian Mrs.Rajeswari

.. Respondents

Criminal Revision Case filed under Section 438 read with 442 of BNSS against the order dated 19.10.2023 passed in F.C.M.C.No.3 of 2022 on the file of the Family Court, Vellore.

For petitioner : M/s.A.Visagan

For respondents: Mr.E.Kannadasan

ORDER

Challenge made in this revision petition is to the order dated 19.10.2023 passed in F.C.M.C.No.3 of 2022 on the file of the Family Court, Vellore.

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2. Learned counsel for the revision petitioner submitted that the first respondent (wife) had filed petition for restitution of conjugal rights, in which, she filed maintenance case. It is stated that the revision petitioner-husband has no income and the first respondent-wife has not proved the income, but the learned Judge of the Family Court failed to consider the above aspects of the matter and passed the impugned order and hence, it is against the provisions of law and thus, the impugned order may be set aside.

3. The learned counsel for the first respondent (wife) and the second respondent/minor daughter, submitted that though she has filed the petition for restitution of conjugal rights invoking Section 9 of the Hindu Marriage Act, and the same was allowed, but the revision petitioner-husband has not taken back the respondents and the maintenance petition was filed in F.C.O.P.No.186 of 2019 before the Family Court, but however, the revision petitioner-husband is living separately even after the said F.C.O.P. was allowed on 25.11.2021. At the time of marriage, the revision petitioner/husband informed the first respondent/wife that he was doing poultry business and also running lorry transport. Therefore, the Family Court ordered reasonable amount of Rs.20,000/-

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as maintenance to the first respondent/wife and Rs.10,000/- to the second respondent/minor daughter. There is no merit in the present revision petition.

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

5. The relationship between the parties is not in dispute. They are living separately, which is also not in dispute. Though the first respondent/wife filed the F.C.O.P.No.186 of 2019 for restitution of conjugal rights, the same was allowed, and despite that, both are living separately.

6. The first respondent/wife filed maintenance petition before the Court below stating that she and the second respondent/minor daughter, are unable to maintain themselves. The revision petitioner-husband, despite having sufficient means, had neglected both the respondents herein. Though the revision petitioner/husband admitted that at the time of marriage, he was running poultry business and also running a poultry farm and that his mother is doing transport business, but however, the revision petitioner/husband has not produced any affidavit/statement of assets and liabilities in proof of the same and it is also stated that the first respondent/wife simply and baldly denied the above contentions of the revision petitioner/husband. The respondents are unable to

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maintain themselves and the revision petitioner-husband, has not proved any disqualification as contemplated under Section 125(4) Cr.P.C. Therefore, according to the respondents, the revision petitioner/husband is liable to maintain the respondents.

7. As far as the quantum of maintenance is concerned, learned counsel for the petitioner-husband admitted that during the time of marriage, he informed the first respondent-wife that he was running a poultry business. But the petitioner has not disclosed either the montly income or the annual income.

8. Though the learned counsel for the petitioner submitted that the first respondent-wife is working as a Teacher, but there are no materials produced on record for the same, but however, in the absence of any proof of income, ordering Rs.20,000/- as maintenance to the first respondent/wife, is unreasonable. Therefore, this Court modifies the maintenance of Rs.20,000/- to Rs.10,000/- (Rupees ten thousand only) to the first respondent-wife. Further, this Court confirms the amount of Rs.10,000/- as ordered to the second respondent-minor by the Court below.

9. With the above modification, this revision petition is disposed of. The

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revision petitioner-husband is directed to pay a sum of Rs.10,000/- (Rupees ten thousand only) to the first respondent-wife every month and the revision petitioner/husband is directed to pay the arrears from the date of filing of the maintenance petition in F.C.M.C.No.3 of 2022, till today and the same be paid from the date of filing of F.C.M.C.No.3 of 2022 till today (03.04.2025) and the above payments are to be made within one month from today (03.04.2025), failing which, the Family Court, Vellore is directed to initiate appropriate proceedings for execution of this order now being passed against the revision petitioner/husband.

10. The miscellaneous petition is closed.

03.04.2025

CS

To

1. The Judge, Family Court, Vellore.
2. The Section Officer, Criminal Section (Records), High Court, Madras.

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