



Crl.R.C.No.941 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.941 of 2023
and
Crl.M.P.No.7619 of 2023

M.Sekar, Son of Late Mariaselvam

.. Petitioner

Vs.

K.Prabhavathy, Wife of M.Sekar

.. Respondent

Criminal Revision Case filed under Sections 401 and 397 of Cr.P.C. against the order dated 17.08.2022 passed in M.C.No.485 of 2014 on the file of Vth Additional Principal Judge, Family Court, Chennai.

For petitioner : M/s.P.Manoj Kumar

For respondent: No appearance

ORDER

The petitioner/husband has filed the present revision petition as against the order passed in the maintenance case filed by the respondent/wife in M.C.No.485 of 2014 on the file of the Vth Additional Principal Judge, Family Court, Chennai, by order dated 17.08.2022, in and by which the said

Page No.1/8



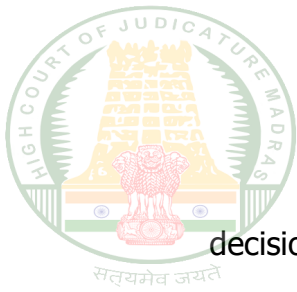
Crl.R.C.No.941 of 2023

maintenance case was partly allowed, directing the husband to pay Rs.10,000/- per month to the respondent/wife from the date of the maintenance petition, and the said amount was directed to be paid before 5th day of every English calendar month.

2. Learned counsel for the petitioner/husband stated that the husband is only getting a meagre pension of just Rs.21,000/- per month and this aspect was duly considered by the Family Court while ordering maintenance. Further, the petitioner/husband has not received the terminal benefits till date and he was working in a School and subsequently, the husband had resigned the job.

3. Further, it is contended that although the respondent/wife is able to maintain herself without any maintenance from the revision petitioner/husband and that she is a trouble-maker and she saw to it that the petitioner/husband is not getting the retirement benefits. Ever after lapse of more than five years, the petitioner/husband is not able to get the retirement benefits.

4. In support of his submissions, learned counsel for the petitioner/husband relied on a case of this Court in J.M.Elangovan Vs. Saranya, dated 09.06.2022 in Crl.R.C.No.889 of 2021, in which, this Court relied on a



Crl.R.C.No.941 of 2023

decision of the Honourable Supreme Court reported in 2017 (14) SCC 200
(Kalyan Dey Chowdhury Vs. Rita Dey Chowdhury Nee Nandy).

WEB COPY

5. It is the further contention of the petitioner/husband that he has to maintain his ailing old age parents. It is the averment of the husband that the respondent/wife is residing in a portion of the house of the petitioner/husband and even the electricity charges and other maintenance are being paid only by the husband and that she is not paying any charges towards the maintenance of the house belonging to the family of the petitioner/husband. Thus, the learned counsel for the petitioner/husband prayed that the impugned order of the Family Court is perverse and the same may be set aside.

6. There is no representation for the respondent herein (wife) today (10.03.2025) and even though, earlier, a learned counsel has entered appearance for the wife.

7. Admittedly, the petitioner/husband has obtained divorce from the respondent/wife and she is residing separately. The petitioner/husband is a retired employee and is getting pension of only Rs.21,000/- from the year of 2022.

Page No.3/8



Crl.R.C.No.941 of 2023

WEB COPY

8. Further, the respondent at present is not gainfully employed anywhere.

9. Considering the cost of living and the price index, the minimum requirement of leading a life for a wife based on the income of the husband is Rs.10,000/- per month, which is sufficient and the same was duly considered by the Family Court while ordering maintenance.

10. Upon perusing the entire materials available on record, and on browsing the impugned order of the Family Court, it is clear that there is no perversity in the impugned order to interfere with by this Court.

11. Learned counsel for the petitioner relied on the decision of the Supreme Court reported in 2017 (14) SCC 200 (Kalyan Dey Chowdhury Vs. Rita Dey Chowdhury Nee Nandy) and prayed that the impugned order in the case on hand, may not be interfered with by this Court.

12. It is useful to refer the said decision of this Court, reported in 2017 (14) SCC 200 (supra), and the relevant portion of the same is extracted below:

Page No.4/8



WEB COPY



CrI.R.C.No.941 of 2023

"13. We have considered the rival contentions and perused the impugned judgment (Rita Dey Chowdhury nee Nandy Vs. Kalyan Dey Chowdhury, - 2016 SCC Online Calcutta 4972) and other materials on record.

14. Section 25 of the Hindu Marriage Act, 1955 confers power upon the Court to grant a permanent alimony to either spouse who claims the same by making an application. Sub-section (2) of Section 25 of the Hindu Marriage Act confers ample power on the court to vary, modify or discharge any order for permanent alimony or permanent maintenance that may have been made in any proceeding under the Act under the provisions contained in sub-section (1) of Section 25. In exercising the power under Section 25(2), the court would have regard to the "change in the circumstances of the parties". There must be some change in the circumstances of either party which may have to be taken into account when an application is made under sub-section (2) of Section 25 for variation, modification or rescission of the order as the court may deem just.

15. The review petition under Order 47 Rule 1 CPC came to be filed by the respondent wife pursuant to the liberty granted by this Court when the earlier order dated 02.02.2015 (Rita Dey Choudhury Vs. Kalyan Dey Chowdhury, 2015 SCC OnLine Calcutta 10447) awarding a maintenance of Rs.16,000/- to the respondent wife as well as to her minor son was under challenge before this Court. As pointed out by the High Court, in February 2015, the appellant husband was getting a net salary of Rs.63,842/- after deduction of Rs.24,000 on account of GPF and Rs.12,000 towards income tax. In February 2016, the net salary of the appellant is stated to be Rs.95,527/-. Following *Kulbhushan Kumar Vs. Raj Kumari* (1970 (3) SCC 129), in this case, it was held that 25% of the husband's net salary would be just and proper to be awarded as maintenance to the respondent wife. The amount of permanent alimony awarded to the wife



WEB COPY



CrI.R.C.No.941 of 2023

must be befitting the status of the parties and the capacity of the spouse to pay maintenance. Maintenance is always dependent on the factual situation of the case and the court would be justified in moulding the claim for maintenance passed on various factors. Since in February 2016, the net salary of the husband was Rs.95,000/- per month, the High Court was justified in enhancing the maintenance amount. However, since the appellant has also got married second time and has a child from the second marriage, in the interest of justice, we think it proper to reduce the amount of maintenance of Rs.23,000 to Rs.20,000 per month as maintenance to the respondent wife and son."

13. The said facts and circumstances of the case before the Supreme Court, are not applicable to the present case on hand.

14. There is no hard and fast rule regarding the fixation of maintenance to a wife, and it depends upon the facts and circumstances of the respective cases.

15. Moreover, in this case, admittedly, the petitioner/husband is a retired employee and getting minimum pension of only Rs.21,000/- per mensem and he has not proved that the respondent-wife is a woman of means.

16. Considering the cost of living and the status of the petitioner/husband,



CrI.R.C.No.941 of 2023

the order of maintenance at Rs.10,000/- is reasonable which is not exorbitant.

WEB COPY

17. In view of the above scenario and perusing the facts of the present case on hand, there is no merit in this revision petition filed by the husband and the facts of the case do not warrant any reason to interfere with the maintenance ordered by the Family Court in the impugned order.

18. This revision petition sans merits and there is no perversity, illegality or irregularity in the impugned order passed by the Family Court.

19. For the foregoing reasons, this revision petition filed by the husband, is dismissed. There shall be no order as to costs. Consequently, the miscellaneous petition is closed.

10.03.2025

CS

To

1. Vth Additional Principal Judge, Family Court, Chennai.
2. The Section Officer, Criminal Section (Records), High Court, Madras.

Page No.7/8



WEB COPY



Crl.R.C.No.941 of 2023

P.VELMURUGAN, J

CS

Crl.R.C.No.941 of 2023

10.03.2025

Page No.8/8