



WEB COPY



C.R.P. (PD) .No.5292 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.5292 of 2024

and

C.M.P.No.29528 of 2024

Madhan @ Srisanth

.. Petitioner

Vs.

Indhumathi

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order passed in I.A.No.2 of 2022 in H.M.O.P.No.912 of 2019 on the file of Additional Principal Family Judge, Coimbatore, dated 13.06.2023.

For Petitioner : Ms.J.Prithivi

ORDER

This civil revision petition arises against the order of the learned Additional Principal Family Judge, Coimbatore, in I.A.No.2 of 2022 in H.M.O.P.No.912 of 2019 dated 13.06.2023.



WEB COPY

2.For the sake of convenience, the parties shall be referred to as husband and wife.

3.H.M.O.P.No.912 of 2019 is a petition for divorce filed by the husband. He seeks for divorce on the grounds of cruelty and desertion.

4.The relationship between the parties is not in dispute. The husband married the wife on 29.05.2013 at Coimbatore. Due to disputes and differences, they separated. The husband filed a petition in H.M.O.P.No.1714 of 2017 as against the wife invoking Section 13 (1) (ia) & (ib) of the Hindu Marriage Act, 1955.

5.Pending the proceedings, on the advice of the friends and relatives, they decided to put an end to the relationship. Accordingly, 13B petition was made ready. Under the terms of the settlement, it was agreed that the husband will pay a sum of Rs.3,00,000/- to the wife and a further sum of Rs.1,00,000/- will be paid to the wife on the withdrawal of C.C.No.49 of 2018 by the wife. A sum of Rs.3,00,000/- was also paid by way of Demand Draft on



26.11.2018. For the reasons best known, 13B petition was not prosecuted.

Being left with no other option, the husband filed a petition in H.M.O.P.No.912 of 2019, seeking for divorce on the very same grounds as in H.M.O.P.No.1714 of 2017.

6.On being served with the summons, the wife filed an application under Section 24 of the Hindu Marriage Act, seeking maintenance of Rs.10,000/- per month from the date of the petition till the date of disposal. She pleaded that she had been chased out of the matrimonial home which constrained her to file a criminal complaint with All Women Police Station at Thudiyalur. She pointed out that the husband pleaded with her and gave a Demand Draft for a sum of Rs.3,00,000/- being the cost towards the jewels that has been purchased by her parents and gifted to her. The husband wanted the wife to file a 13B petition and had created an agreement on the basis of the blank document that has been obtained earlier. She pleaded that she has no source of income and is living of the doles that are given by her parents. She alleges that the husband indulges in Real Estate and Photography work and is earning a sum of Rs.1,00,000/- per month.



7.The husband filed a detailed counter to the said application. He denied the averments made by the wife that the sum of Rs.3,00,000/- was paid to the wife was towards the cost of the jewels. He asserted it was towards filing of 13B petition. He produced a copy of the demand draft and 13B petition before the Trial Court. He pleaded that as he felt cheated, he lodged a complaint against the wife before the Judicial Magistrate at Coimbatore. He stated that he is working as a Staff in Emerold Company at Thudiyalur and is earning only a sum of Rs.15,000/- per month. On these materials, he pleaded that the interim maintenance petition be dismissed.

8.The learned Trial Judge factually found that the husband is working as a driver and is earning about Rs.20,000/- to Rs.30,000/- per month. He took into consideration that the husband is taking care of his parents and is spending considerable amount towards repayment of car loan through EMI and also the medical expenses of his parents. He came to the conclusion that the wife should be paid a sum of Rs.5,000/- per month by the husband from the date of filing of I.A.No.2 of 2022 till 13.06.2023 and Rs.7,500/- per month thereafter.



WEB COPY

9. Aggrieved by the same, the husband is on revision before me.

10. I heard Ms.J.Prithivi for the civil revision petitioner.

11. Ms.J.Prithivi states that the wife was satisfied with a sum of Rs.3,00,000/- paid towards filing of the 13B petition and today, she is taking advantage of the fact that the husband has filed a petition for divorce, is seeking for maintenance. She states that the husband is taking care of his parents and is working as a mere call driver and the amount that is fixed is excessive.

12. I have carefully considered the submissions of Ms.J.Prithivi.

13. The relationship between the parties is not in dispute. When the relationship of husband and wife exist, it is the duty of the husband to maintain the wife when she pleads she is unable to maintain herself. The husband though has marked other exhibits, has not produced any document before the Trial Court to point out that the wife is earning sufficient income



to maintain herself. Section 24 comes into play when a divorce petition is filed and when one of the spouses is unable to maintain himself or herself.

Therefore, it satisfies the first requirement of Section 24.

14.The fact that the husband is taking care of his parents does not mean he should not take care of his wife. As long as the relationship exists, it is the duty of the husband to take care of both, his parents as well as his wife. Taking care of one's parents is not mutually exclusive when taking care of ones spouse. The amount that the husband spends on his parents has to be borne in mind at the time of fixing of the quantum of maintenance. The quantum that has been fixed in this case is Rs.5,000/- per month from the date of filing of the petition and Rs.7,500/- per month after the date of the order.

15.For a woman, who is living in the city of Coimbatore, a sum of Rs.7,500/- cannot be said to be excessive amount. With the said sum, she will only be in a position to take care of herself with bare necessities. She is not going to live a life in the lap of luxury.

16.In view of the above discussion, I do not find any reason to interfere



C.R.P. (PD) .No.5292 of 2024

with the order passed by the learned Additional Principal Family Judge,
Coimbatore.

17.The learned Trial Judge is requested to verify if all the arrears has been paid. If the husband has paid the arrears and the amount of maintenance month-on-month and if he satisfied with the same, the learned Trial Judge is requested to expedite the H.M.O.P, considering the fact that the parties have been litigating from 2017 onwards.

18.Accordingly, this Civil Revision Petition is dismissed.
Consequently, the connected Miscellaneous Petition is closed. No costs.

08.01.2025

krk

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

To

The Additional Principal Judge,
Additional Principal Family Court,
Coimbatore.

7/8



WEB COPY



C.R.P. (PD) .No.5292 of 2024

V.LAKSHMINARAYANAN, J.

krk

C.R.P.(PD).No.5292 of 2024

08.01.2025