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C.R.P.No.5391 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.5391 of 2024 &
CMP.No.29990 of 2024

M.Illamaran

.. Petitioner

Versus

Nithya

.. Respondent

Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the order in I.A.No.859 of 2022 in M.O.P.No.247 of 2018 dated 25.09.2024 passed by the learned Family Court (FAC) at Puducherry.

For Petitioner : Ms.A.Aarthi

ORDER

This civil revision petition challenges the order of the learned Family Judge at Puducherry in IA.No.859 of 2022 in MOP.No.247 of 2018 dated 25.09.2024.



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2. The civil revision petitioner is the husband. There is no dispute in the relationship between the parties. They entered into a matrimony on 09.04.2017 at Puducherry. Subsequently, due to disputes and differences, the parties separated. The husband invoked Section 13(1)(ia) of the Hindu Marriage Act and presented M.O.P.No.247 of 2018.

3. Summons was served on the wife and she has also entered appearance and filed a detailed counter. Pending disposal of the proceedings, she filed I.A.No.859 of 2022. This was an application under Section 24 of the Hindu Marriage Act read with Section 20 of the Protection of Women from Domestic Violence Act, 2005.

4. She pleaded that the husband, who is a B.Tech MHRM graduate, has been employed in Republic of Singapore. She stated that the husband's employer is one M/s. U to C Engineering Pvt., Ltd. In the said institution, the husband is working as a quality analyst and is generating a sum of Rs.3,00,000/- per month as salary. Hence, she sought for Rs.75,000/- as interim maintenance.



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4. This application was resisted by the husband. He pleaded that the petitioner is working as a professor in Idhaya Women Science and Arts College at Puducherry and is earning a fancy salary. He added that the wife is owning a two-wheeler and furnished its registration number. He pleaded that the wife is suffering from hypo-thyroid problem and is consuming medications for the same regularly. He added that fact had been suppressed at the time of marriage. He pointed out that he is earning a sum of Rs.93,000/- per month and it is a misleading statement of the wife that he is earning Rs.3,00,000/- per month.

5. In terms of the directions given by the Supreme Court in ***Rajnish v. Neha, (2021) 2 SCC 324***, the husband filed his affidavit of assets and liabilities. In the said affidavit, he conceded his monthly salary as SGD 1500. The wife filed her affidavit of assets and liabilities, and pleaded that she is not employed anywhere.

6. The learned Trial Judge took up the application for disposal. She perused the affidavit and counter and came to the conclusion that the wife is



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entitled to maintenance and quantified the amount at Rs.15,000/- per month.

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

7. I heard Ms.A.Aarthi for the civil revision petitioner.

8. Ms.A.Aarthi pleads that the wife is employed and therefore, she is dis-entitled to receive maintenance from the husband. She states that the husband is earning only 1500 SGD per month and to call upon him to pay Rs.15,000/- towards interim maintenance is excessive. Hence, she pleads the order be revised.

9. I have carefully considered the submissions of Ms.A.Aarthi and have gone through the records.

10. In terms of Section 24 of the Hindu Marriage Act, a spouse is entitled to be maintained, in case, she or he is unable to sustain themselves. A reading of the said Section would show that a spouse, applying for the relief under Section 24, should plead that she or he has no independent income sufficient for her or his support. Nowhere does the Section bar the



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wife or the husband from seeking maintenance, in case, she or he is employed. The test is that even if they are working, the amount that he or she is receiving from the employer is not sufficient to support the necessary expenses.

11. Here is the case where the husband pleads, the wife is employed in a college. Absolutely no evidence has been let in before the court to substantiate the plea. On the contrary, the wife has filed an affidavit stating that she is not employed. When there is a denial, the burden is on the husband to substantiate his plea. Unfortunately, he had not substantiated the same.

12. I would look at this issue in another angle. The amount of maintenance that the husband has to pay to the wife or vice versa depends on the status of the parties. The Supreme Court in ***Rajiv Verghese v. Rose Chakkramankil Francis, 2024 SCC OnLine SC 3367*** has held that the wife is entitled to be maintained in the same status, pending the divorce proceedings, as she would have been, in case, she continued to be in the matrimonial home. When the husband is abroad and working in Singapore,



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one can reasonably expect that the respondent/wife would have been paid at least Rs.15,000/- per month. The learned Trial Judge has taken a conservative approach and has merely ordered this sum as maintenance to the wife.

13. The wife being in the metropolitan city of Puducherry, a sum of Rs,15,000/- which works out to Rs.500 per day can neither said to be excessive nor arbitrary. This is more so when the husband is earning in foreign currency.

14. In the light of the above discussion, I am not in position to come to the rescue of the petitioner. This civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

30.01.2025

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no



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To

The Family Court (FAC) at Puducherry.



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V.LAKSHMINARAYANAN, J.

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