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C.R.P.No.5318 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.01.2025**

CORAM

THE HONOURABLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P. No. 5318 of 2024

and C.M.P.No.29592 of 2024

1. Nandhini

2. Minor N.K.Jai Pranav

.... Petitioners

Vs

N.Kirubakaran

.... Respondent

Prayer : Civil Revision Petition under Article 227 of the Constitution of India praying to set aside the Fair and final order dated 13.03.2024 passed by the learned Additional Principal Family Court Judge, Coimbatore in CMP No.125 of 2023 in MC No.98 of 2017.

For Petitioner : Mr.A.Sriram

ORDER

The Civil Revision petition is against the order of the Additional Principal Family Court at Coimbatore in CMP No.125 of 2023 in MC No.98 of 2017 dated 13.03.2024.

2. MC No.98 of 2017, is a petition filed under Section 125 of the Criminal Procedure Code. The first Civil Revision petitioner married the sole respondent on 04.06.2010. From the wedlock, a child was born to the couple



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on 20.03.2011. Thereafter, disputes arose between the parties. The wife had presented HMOP No.508 of 2015 seeking judicial separation. Subsequently, she withdrew the said petition. For his turn, the respondent presented HMOP No.1120 of 2016, which Mr.Sriram states has been dismissed.

3. Pleading that the husband is an orthopedic doctor, who is earning about 15 lakhs per month, the wife presented MC seeking maintenance of Rs.7.5 lakhs per month. Husband has entered appearance and has filed a counter. The case is today said to be listed for further evidence on the side of the petitioner.

4. The petitioner filed CMP No.125 of 2023 for summoning one Dr.Mathivathani to be examined as PW2. According to the wife, the sole respondent had married Mathivathani as his 2nd wife and through her, he has two children. She wanted to summon the said person in order to give evidence with respect to the paternity of the two children said to have been born to her and also the nature of life that is being lead by the two children.

5. This application was opposed by the sole respondent pleading that there is no relationship between him and Dr.Mathivathani and that she is not in any way connected to the maintenance proceedings. He also pleaded that being a third party to the matrimonial proceedings, the nature of her



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evidence is irrelevant to the case.

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6. The learned trial judge on appreciation of facts dismissed the petition. Hence, this revision.

7. I heard Mr.Sriram, in support of the revision.

8. Mr.Sriram urges that there exists a matrimonial relationship between the sole respondent and Dr. Mathivathani and the sole respondent had purchased several properties in her name. In addition, he urges that through the said Mathivathani, the sole respondent has begotten two children, who are leading a luxurious life. He states that if the said person is examined before the Court, he will be in a position to substantiate the luxurious life being led by the respondent and this will assist the Court to come to a conclusion on the quantum of maintenance. He points out that in a police complaint that had been given by the husband as against a third party registered as Crime No.18 of 2010, the sole respondent has stated that he has three children, whereas, the 2nd petitioner herein alone is the son.

9. I have carefully considered the submissions of Mr.Sriram and have gone through the records.



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10. In a petition under Section 125 of the Code of Criminal Procedure, a Court will decide on the quantum of maintenance that a person is liable to pay if he shown to have sufficient means and still neglects to maintain his wife and children, who is unable to maintain themselves. In such a proceedings, the fact that the husband has other relationship with other persons is absolutely irrelevant. Section 125, cannot be used as a fishing expedition to get details about the manner in which a husband is maintaining his alleged 2nd wife and children born through her. If the petitioner proves the income of the husband, is such that she is entitled to substantial quantum of that income, an order will automatically ensue. For the said purpose, the examination of alleged second wife is absolutely irrelevant.

11. In the light of the above discussion, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

09.01.2025

Index : Yes/No

NC : Yes/No

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V.LAKSHMINARAYANAN, J.

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To

Additional Principal Family Court Judge, Coimbatore

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