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C.R.P. (PD) .No.5371 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.5371 of 2024
and C.M.P.No.29778 of 2024

Nirmal Kumar

.. Petitioner

Vs.

1.Sagambari Devi

2.Tojana

Rep. by her natural guardian / 1st petitioner
Sagambari Devi

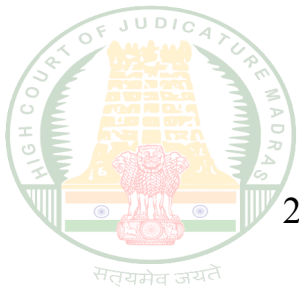
.. Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 22.10.2024 in I.A.No.1 of 2024 in O.P.No.3819 of 2022 passed by the VI Additional Principal Judge, Family Court at Chennai.

For Petitioner : Mr.B.Manikandan

ORDER

This civil revision petition challenges the order passed by the learned VI Additional Principal Judge, Family Court, Chennai, in I.A.No.1 of 2024 in O.P.No.3819 of 2022 dated 22.10.2024.



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2. There is no dispute in the relationship between the parties.

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

4. The husband married the wife on 29.08.2018. From the wedlock, a child was born on 08.06.2019. Due to disputes and differences, the parties have separated. Feeling aggrieved over the manner in which he was treated during the course of the matrimony, the husband filed H.M.O.P.No.3819 of 2022, seeking divorce on the ground of cruelty.

5. On being served with the summons, the wife filed a detailed counter to the proceedings. Thereafter, she took out an application seeking for interim maintenance invoking Section 24 and 26 of the Hindu Marriage Act. She pleaded that the monthly income of the husband is around Rs.2,00,000/- and hence, wanted the Court to fix the monthly maintenance of Rs.45,000/- towards herself and Rs.30,000/- towards the minor daughter. She also requested the Court to grant her a sum of Rs.1,00,000/- towards litigation expenses. She pleaded that the husband owns lot of immovable properties and



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is generating rental income of Rs.30,000/- per month. In addition, she pleaded that the husband holds policies with LIC and Reliance Insurance and has Fixed Deposits, through which he is getting regular income by way of Bank interest. She added that there are no dependants for the husband, apart from the wife and daughter, as his father is receiving monthly pension.

6.This application was resisted by the husband. He pleaded that he has EMIs to pay and he has to take care of his aged parents. He added that he has to pay the building maintenance on monthly basis. He did not deny the fact that he is generating rental income.

7.The learned Trial Judge took up the application on the basis of the affidavit and counter and the parties were called upon to file their affidavit of assets and liabilities. They also did so.

8.The learned Trial Judge took up the application for disposal and ordered that the wife will be entitled to a sum of Rs.15,000/- per month as maintenance and the minor daughter will be entitled to a sum of Rs.20,000/- per month as maintenance, totalling a sum of Rs.35,000/- per month as



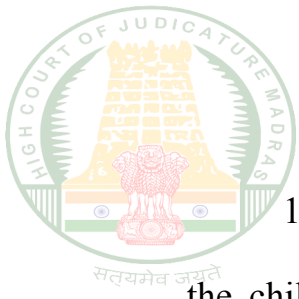
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maintenance for both the wife and daughter. She further directed the husband to pay a sum of Rs.1,00,000/- towards litigation expenses. For the payment of arrears from February, 2024 till the date of allowing the application, she granted four months time to the husband. Aggrieved by the same, the husband is on revision before me.

9.I heard Mr.B.Manikandan for the civil revision petitioner.

10.Apart from the contentions that were raised before the learned Trial Judge, Mr.B.Manikandan urges that the wife is an employee of TCS and is generating an income of Rs.38,000/- per month. While he accepts the liability of Rs.20,000/- towards the monthly maintenance of the child, he seeks for revising the order insofar as the wife is concerned. In addition, he pleads the fixation of Rs.1,00,000/- as litigation expenses creates financial difficulty for the husband. Hence, he seeks to revise the same.

11.I have carefully considered the submissions of Mr.B.Manikandan and gone through the records.



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12.The relationship between the parties is not in dispute. The birth of the child is also not in dispute. The husband admits that he is generating income of Rs.1,50,000/- from his employer.

13.The fact that the wife is employed, does not mean that the husband need not pay a single pie towards maintenance. Recently the position of law has been settled by the Supreme Court in ***Dr.Rajiv Verghese Vs. Rose Chakkramankkil Francis, (2024) SCC OnLine SC 3367***. The Supreme Court held that a wife is entitled to be maintained in the same standard of living as she was, while living in the matrimonial home. The mere fact that divorce proceedings has been initiated does not mean the wife is not entitled to enjoy the same amenities of life. That being the position of law, I have to apply the same to the facts of the present case.

14.When the husband is generating income of Rs.1,50,000/- per month, what has been fixed by the Court is, just about 1/5th of the salary that he gets, as maintenance towards the wife and child. Considering the fact that the wife is employed, the Court has not granted the amount that she has asked for. The Court has reduced the amount and has ordered only a sum of Rs.15,000/- per



month as maintenance for the wife. Rs.15,000/- per month works out to approximately Rs.500/- per day. It is not in dispute that the petitioner – husband is an Engineering Graduate and PG in Master of Business Administration and is employed as an Executive in Multi National Company. A wife of such a person would obviously spend more than Rs.500/- per day. The learned Trial Judge had applied the correct principle of law and had ordered a sum of Rs.15,000/- per month as maintenance for the wife. This amount is said to be neither excessive nor arbitrary.

15.Looking into the amount that has been fixed as maintenance to child, Mr.B.Manikandan states that the father is willing to pay a sum of Rs.20,000/- per month towards the maintenance of the child.

16.As far as the litigation expenses of Rs.1,00,000/- is concerned, in case the husband is called upon to pay the said sum in one lumpsum, it would create some financial difficulty to the husband. This is because, he would have to clear the arrears of maintenance from February, 2024 and continue to pay the amount of Rs.35,000/- per month. Fixation of Rs.1,00,000/- as litigation expenses, though not excessive, taking into consideration the plea of



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Mr.B.Manikandan, the amount of Rs.1,00,000/- towards litigation expenses shall be paid by the husband in four equal instalments commencing from January, 2025. In all other respects, the order of the learned VI Additional Principal Judge, Family Court, Chennai, in I.A.No.1 of 2024 in O.P.No.3819 of 2022 dated 22.10.2024 stands confirmed.

17.In the result, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

27.01.2025

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

The VI Additional Principal Judge,
Family Court,
Chennai.



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V.LAKSHMINARAYANAN, J.

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