



Crl.R.C.(MD)No.607 of 2024

WEB COPBEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.04.2025

Delivered on : 04.08.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.607 of 2024

and

Crl.M.P(MD)Nos.6274 and 10396 of 2024

P.Rajendran

: Petitioner

Vs.

1.A.Kathiri

2.R.Sri nagalakshmi @ Asritha

: Respondents

(Second respondent minor represented by her mother and
natural guardian/first respondent)

PRAYER : Criminal Revision Petition filed under Section 397 & 401 of Cr.P.C., to call for the records pertaining to the order, dated 27.07.2020 in M.C.No.9 of 2020 on the file of the Family Court, Theni and set aside the same.

For Petitioner : Mrs.K.Vidya

For Respondents : Mr.K.Appadurai, for R1.



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ORDER

The Criminal Revision is directed against the order passed in M.C.No.9 of 2020 , dated 27.07.2020 on the file of the Family Court, Theni, awarding maintenance.

2. It is not in dispute that the marriage between the revision petitioner and the first respondent was solemnized on 21.08.2018 as per Hindu Rites and Customs and due to their wed-lock, they were blessed with a female child second respondent herein and that thereafter, there arose some misunderstanding and issues between them and are living separately.

3. The first respondent for herself and on behalf of her minor daughter have laid the maintenance claim alleging that after the birth of the second respondent, the petitioner avoided to live together and declined to take back the respondents to the matrimonial home; that the petitioner filed a divorce case and the same is pending on the file of the Sub Court, Theni; that the respondents are living without any means for their basic needs; that the petitioner is working as Headmaster and is getting monthly salary at



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Rs.44,000/- and that the petitioner is duty bound to maintain the respondents and as such, the respondents are entitled to get maintenance at Rs.10,000/- each.

4.The revision petitioner has filed a counter statement disputing the petition averments and also stated that the first respondent compelled him to get transfer to Theni; that since the petitioner had expressed his unwillingness to get transfer, the first respondent left the matrimonial home with the second respondent, without intimating the petitioner and went to her parental home; that the first respondent and her parents had quarreled with the petitioner through phone and the first respondent refused to live with the petitioner; that the petitioner's repeated efforts for re-union were of no avail and that since the first respondent has withdrawn from the society of the petitioner by herself, she is not entitled to get any maintenance, but the petitioner is ready to provide maintenance to his daughter second respondent.

5. During trial, the first respondent examined herself as P.W.1 and exhibited five documents as Ex.P.1 to Ex.P.5. Despite granting several

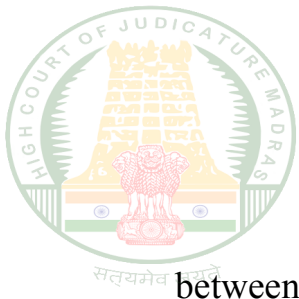


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opportunities, the revision petitioner has adduced neither oral nor documentary evidence.

6. The learned Judge of Family Court, after granting several opportunities for the petitioner side arguments and since the petitioner has not turned up, upon considering the evidence available on record and on hearing the arguments of the respondents side, has passed the impugned order, dated 27.07.2020, directing the petitioner to pay monthly maintenance at Rs.10,000/- to the first respondent from the date of petition and to pay monthly maintenance at Rs.8,000/- to the second respondent from the date of petition till she attains majority. Aggrieved by the impugned order, the present Criminal Revision came to be filed.

7. The learned counsel appearing for the petitioner would submit that after the birth of the second respondent, the first respondent compelled the petitioner to get transfer of his job to Theni and demanded the petitioner to shift the family to Theni as she wanted to live with her parents; that since the petitioner has been working as Headmaster at Hosur, he refused to shift the family to Theni and hence, there arose some serious difference of opinion

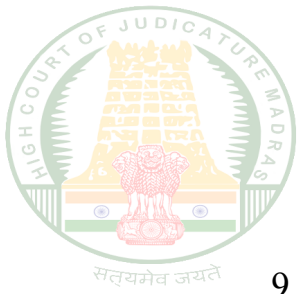


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between them, resulting in which, the first respondent left the matrimonial home without any intimation to the petitioner and since then she deserted the petitioner and is living with her parents.

8. The learned counsel appearing for the petitioner would further submit that the petitioner has made several mediations for reunion, but all his efforts ended in vain, due to adamant attitude of the first respondent; that the petitioner with no other option has filed the divorce petition in H.M.O.P. No.190 of 2018 before the Sub Court, Theni and subsequently, considering the welfare of their minor daughter, has withdrawn the divorce petition, but the first respondent in the meanwhile has filed the above maintenance claim and got an order; that the petitioner is ready and willing to live with the first respondent and their daughter; that the first respondent has now become an Advocate, and she is practicing and able to maintain herself; that the first respondent has chosen to live on her own volition and as such, she is not entitled to get any maintenance and that therefore, the impugned order is liable to be interfered with.



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9. The learned counsel appearing for the respondents would submit that after the birth of the second respondent, the petitioner has refused to take the respondents to the matrimonial home and thereby deserted the respondents; that the petitioner has neglected to maintain the respondents; that the petitioner alone, expressing his intention not to live with the respondents, has filed divorce petition and subsequently, withdrew the same for the reasons best known to him; that though the trial Court has granted several opportunities, the petitioner has failed to produce any iota of evidence to prove his alleged defence; that the petitioner himself admitted that he is working as Headmaster and failed to dispute or deny the quantum of salary alleged by the first respondent and that the learned trial Judge, considering the evidence on record in proper perspective, has awarded maintenance to the respondents and that therefore, there is nothing to interfere with the reasoned order.

10. The learned counsel for the petitioner would submit that since the petitioner has not adduced any evidence before the trial Court, the impugned order may be set aside and the matter may be remitted to the trial Court giving opportunity to the petitioner to adduce evidence and to pass orders on merits.



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11. As rightly contended by the learned counsel for the respondents, the impugned order came to be passed on 27.07.2020. It is not in dispute that since the petitioner has not paid the arrears amount, at the instance of the first respondent non-bailable warrant came to be issued; that the first respondent has also obtained garnishee order and as a result of which, a sum of Rs.8,97,000/- came to be deducted from the petitioner's salary and that while condoning the delay in representation, the petitioner has deposited a sum of Rs.50,000/- before the trial Court, in pursuance of the orders of this Court. Moreover, the petitioner has not assigned any valid or sufficient reason for remitting the case back to the trial Court.

12. It is the specific contention of the first respondent that after the birth of the second respondent, the petitioner has alone refused to take them to the matrimonial home and their efforts for reunion ended in vain. But on the other hand, the petitioner has taken a stand that the first respondent has compelled him to get his job transfer to Theni and also shift their family to Theni as she wanted to live with her parents and that since the petitioner has been working as Headmaster at Hosur, refused to shift the Family to Theni and as a result of which, there arose some misunderstanding between them

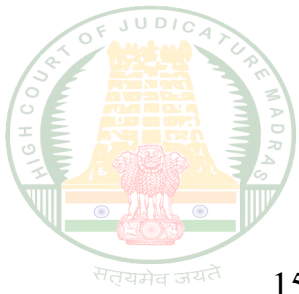


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and the first respondent left the matrimonial home without any intimation or knowledge of the petitioner.

13. As rightly contended by the learned counsel for the respondents, the first respondent in her evidence would narrate the petitioner's contentions as to how the petitioner has refused to take the respondents to the matrimonial home and as to how he neglected them.

14. No doubt, the first respondent was subjected to cross examination. But as rightly observed by the learned trial Judge, nothing was elicited in the cross examination in favour of the petitioner's defence. More importantly despite granting several opportunities, the petitioner has failed to adduce any evidence in support of his defence raised in the counter statement. The petitioner has alleged that he made several mediations for reunion, but all his efforts ended in failure due to adamant attitude of the petitioner. Except the above, the petitioner has not elaborated anything further. Moreover, he has not produced any evidence to show that several mediations were attempted and the same ended in failure.



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15. Considering the evidence available on record, the learned Judge of Family Court has rightly come to a decision that the separate living of the respondents cannot be considered as unjustifiable and the petitioner has failed to show that the first respondent has wilfully neglected the petitioner.

16. As already pointed out, the petitioner in the counter affidavit has specifically admitted that he is working as Headmaster. According to the respondents, the petitioner is getting monthly salary of Rs.40,000/-. As already pointed out, the said factum has not been specifically disputed by the petitioner.

17. No doubt, though the respondents have taken a stand that at the time of hearing of maintenance case, the petitioner has been getting monthly salary of Rs.57,536/-, but the learned trial Judge, taking note of the fact that the first respondent has not produced any evidence, has rightly fixed the monthly income of the petitioner at Rs.44,000/-.

18. Before the trial Court, it is not the case of the petitioner that the first respondent was working and was getting good income. It is also not the



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case of the petitioner that the first respondent is having sufficient properties or necessary source and is able to maintain herself and her minor daughter. No doubt, during the arguments the learned counsel for the petitioner would submit that the first respondent has completed BL Course and now she is practicing as an Advocate and is getting good income. But admittedly, the petitioner has not produced any iota of evidence to substantiate that the first respondent is a practicing Advocate and is getting good income.

19. Even assuming for argument sake that the first respondent is now a practicing Advocate and is getting income, this would be a matter for the petitioner to raise before the trial Court for modification.

20. Considering the above and also the present economic scenario and the status of the parties, the maintenance awarded at Rs.10,000/- for the first respondent and Rs.8,000/- for the second respondent cannot said to be excessive and is very much reasonable and as such, the impugned order cannot be found fault with. Consequently, this Court concludes that the Criminal Revision is devoid of merits and the same is liable to be dismissed.



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21. In the result, this Criminal Revision Case is dismissed.

Consequently, the connected Miscellaneous Petitions are closed.

04.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

The Judicial Magistrate No.VI,
Tiruchirappalli.



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K.MURALI SHANKAR,J.

das

Pre-delivery Order made in
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Dated: 04.08.2025