



WEB COPY



1

C.M.A.(MD)NO.469 OF 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MS.JUSTICE R. POORNIMA

C.M.A.(MD)No.469 of 2019 AND

C.M.P.(MD)No.5540 of 2019

Dr.P.S.Raghu

... Appellant /
Respondent / Petitioner

Vs.

V.S.Shruthy

... Respondent/
Petitioner / Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, to set aside the fair and decreetal order made in I.A.No.1 of 2019 in H.M.O.P.No.172 of 2018 on the file of the Family Judge, Kanniyakumari District at Nagercoil dated 09.04.2019 by allowing this civil miscellaneous appeal.

For Appellant : Mr.S.Seenivasan

For Respondents : Mr.N.Anand Chellaram

* * *

**J U D G M E N T**

WEB COPY

(Judgment of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard the learned counsel on either side.

2. The appellant herein filed H.M.O.P.No.172 of 2018 on the file of the Family Court, Kanyakumari at Nagercoil seeking divorce. In the said HMOP, the respondent filed I.A.No.1 of 2019 seeking interim maintenance under Section 24 of the Hindu Marriage Act. The Court below vide order dated 09.04.2019 directed the appellant herein to pay a sum of Rs.15,000/- per month towards interim alimony. Questioning the same, this civil miscellaneous appeal came to be filed.

3. Interim stay was granted on condition that the appellant should pay a sum of Rs.7,500/- per month. The learned counsel for the appellant states that the said condition has been complied with.

4. We now intend to test the impugned order on merits.

5. It is the respondent who has sought divorce on the ground of cruelty. The appellant herein in his counter affidavit had expressed his



readiness to take her back. It is further seen that the appellant herein originally worked as Lecturer in the College of Pharmacy at Rajasthan. On 02.01.2019, he had met with a major accident. As a result, his services were terminated. It is stated that the appellant is presently without employment.

6. The Court below could have passed an order for interim maintenance or alimony only after rendering a specific finding that the appellant was at fault. In this case, no such specific finding has been rendered when the respondent is seeking divorce.

7. In the facts and circumstances of this case, since the respondent is seeking divorce, her rights will have to be abide by the outcome of the HMOP. However, the amount already deposited by the appellant will remain to the credit of H.M.O.P.No.172 of 2018 which will abide by the outcome of the HMOP. The impugned order is set aside. This civil miscellaneous appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (R. POORNIMA, J.)

9th January 2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU



WEB COPY



4

C.M.A.(MD)NO.469 OF 2019

G.R.SWAMINATHAN,J.

AND

R.POORNIMA, J.

PMU

To:

1. The Judge,
Family Court,
Kanniyakumari District at Nagercoil.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

C.M.A.(MD)No.469 of 2019

09.01.2025