



CRL RC(MD)Nos.866 of 2023 and 906 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 28.08.2025

PRONOUNCED ON : .2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)Nos.866 of 2023 and 906 of 2023

CRL RC(MD)No.866 of 2023:

S.Jeyaramakrishnan ... Petitioner / Respondent
Vs.

P.Maheswari ... Respondent /Petitioner

PRAYER: Criminal Revision Petition is filed under Section 401 and 307 of Cr.P.C., 1973, to call for the records and set aside the impugned order dated 15.05.2023 passed in M.C.No.10 of 2022, on the file of the learned Family Court, Srivilliputtur.

For Petitioner : Mr.P.M.Vishnuvarthan

For Respondent : Mr.J.Barathan

CRL RC(MD)No.906 of 2023:

P.Maheswari ... Petitioner / Petitioner

Vs.

S.Jeyaramakrishnan ... Respondent / Respondent



CRL RC(MD)Nos.866 of 2023 and 906 of 2023

PRAYER: Criminal Revision Petition is filed under Section 397 and 401 of Cr.P.C., 1973, to call for the records and set aside the order dated 15.05.2023 passed in M.C.No.10 of 2022 on the file of the learned Family Court, Virudhunagar District at Srivilliputtur and quantify the monthly maintenance and enhance the same so far as the petitioner is concerned.

For Petitioner : Mr.J.Barathan

For Respondent : Mr.P.M.Vishnuvarthanan

ORDER

Preface & Case Outline:

(a) These cross-revisions arise from the order dated 15.05.2023 passed by the learned Family Judge, Srivilliputhur, in M.C. No.10 of 2022 under Section 125 Cr.P.C., 1973, whereby the respondent-husband was directed to pay Rs.20,000/- (Rupees Twenty Thousand only) per month as maintenance to the wife from the date of the petition (28.02.2022) and Rs.5,000/- (Rupees Five Thousand only) towards litigation expenses.

(b) Cr1.R.C.(MD) No. 866 of 2023 is filed by the husband assailing the award as unwarranted and excessive; Cr1.R.C.(MD) No. 906 of 2023 is filed by the wife seeking enhancement to Rs.1,00,000/- (Rupees One



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Lakh only) per month and for appropriate directions as to commencement and arrears.

Facts of the Case:

2. The marriage between the parties was solemnised on 31.03.2021 at Sri Valli Devasena Sametha Kalyana Subramania Swamy Temple, Karuvampalayam, Tiruppur, in accordance with Hindu rites. The couple cohabited at Tiruppur for about 20 days. The wife states that at marriage she received 50 sovereigns of gold, Rs.1,00,000/- cash, silver/brass/ever-silver utensils and other articles; the husband received a gold chain (6¼ sovereigns), a ring and a bracelet from her parents as Stridhana. She asserts that, save the gold ornaments, the other articles remain with the husband. She also avers that the husband took Rs.32,000/- (Rupees Thirty Two Thousand only) from her father to purchase a coat, suit, watch, shoes, belt and tie, and that half the wedding expenses were borne by her father.

3. The husband is a B.Tech graduate employed as Risk Officer, Emirates Steel Industries, Abu Dhabi (U.A.E.). The wife also holds a B.Tech degree. The wife pleads that, though an e-visa dated 13.04.2021



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(Ex.P9) was procured at a cost of Rs.18,500/- (Rupees Eighteen Thousand and Five Hundred only) by her father through Nithya Travels, the husband's parents and sisters demanded surrender of 50 sovereigns, an additional 20 sovereigns and Rs.2,00,000/- (Rupees Two Lakhs only) and transfer of the Srivilliputhur house which stands in the name of the wife's father to her husband's name; upon refusal, the husband left alone for Abu Dhabi on 19.04.2021 (Ex.P11) and thereafter she was subjected to intimidation and assault by in-laws, leading to police intervention and her departure with her parents on 22.06.2021 upon the husband's consent through phone call with an assurance to take her within 20 days. However, the said assurance was not honoured.

4. The wife asserts that the husband draws about AED 17,415 per month (~ Rs.3,91,468/-), owns immovable properties including a bungalow at Tiruppur and earns rent/interest, placing his total monthly means over ~ Rs.4,00,000/- (Rupees Four Lakhs only) which is supported, according to her, by Ex.P13, Ex.P17, Ex.P18 and the admissions of D.W.1. She seeks Rs.1,00,000/- (Rupees One Lakh only) per month towards maintenance, narrating that she has no independent income, has suffered mental agony, and resides with her



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aged father at Srivilliputhur in hardship.

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5. The husband, while admitting gross salary around Rs. 3,90,000/- (Rupees Three Lakhs and Ninety Thousand only), pleads heavy overseas outgoings including ~Rs.13,00,000/- ((Rupees Thirteen Lakhs only) towards annual rent, medical and living expenses. He alleges that the wife is employed and earning more than Rs.15,000/- (Rupees Fifteen Thousand only) per month, that she voluntarily left after quarrels, and relies on electronic evidence under Section 65B Evidence Act, 1872, to show that she went with her parents on 19.04.2021. He characterises the demands / dowry allegations as false, points to police mediation on 22.06.2021, and presses that education/employability disentitles her to maintenance.

Impugned order in M.C.No.10 of 2022:

6. The learned Family Judge, Srivilliputtur, upon appreciating the oral and documentary evidence including Ex.P11, P13, P17, P18 and the admissions of D.W.1, held that: (i) the marriage subsists; (ii) the parties live apart; (iii) the husband is gainfully employed with AED 17,415/month (~ Rs.3,91,315/-) and has assets/rental income; and (iv)



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notwithstanding the wife's educational qualifications and health, the statutory obligation under Section 125 Cr.P.C., 1973, survives. Quantifying, the learned Trial Court awarded Rs.20,000/- (Rupees Twenty Thousand only) per month from 28.02.2022 with Rs.5,000/- (Rupees Five Thousand only) as litigation expenses.

Submissions:

7. Husband's submissions (Crl.R.C.(MD) No. 866 of 2023):

Wife is qualified, allegedly employed earning more than Rs. 15,000/- (Rupees Fifteen Thousand only); hence, not "unable to maintain herself." Voluntary departure amounts to desertion and quantum ignores net disposable income given compulsory foreign expenses. He has complied with interim orders; no arrears.

8. Wife's submissions (Crl.R.C.(MD)No. 906 of 2023):

Constructive desertion: husband left alone on 19.04.2021 after unlawful demands; police sent her with parents on 22.06.2021 with husband's consent. D.W.1 admissions and Ex.P13, P17, P18, D12 establish Rs.3.91 lakh/month salary and rents/assets.



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Education/potential employability in the absence of sufficient independent income; seeks enhancement to Rs.1,00,000/- (Rupees One Lakh only) from 28.02.2022, insisting that parents' means would be irrelevant, in deciding a maintenance case.

9. *Points for Determination:*

(i) Whether the wife has established neglect/refusal by the husband and that she is unable to maintain herself within the meaning of Section 125 Cr.P.C., 1973?

(ii) Whether the finding of entitlement calls for interference?

(iii) If entitled, whether the quantum of Rs.20,000/- p.m. warrants enhancement/reduction?

(iv) From what date should maintenance operate?

10. *Legal position:*

It is trite that Section 125 Cr.P.C., 1973, is a social justice measure to prevent vagrancy and destitution; proceedings are summary and the standard is preponderance of probabilities. The controlling principles are well-settled, by a catena of decisions of the Hon'ble Apex



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Court.

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10.1. ***Chaturbhuja v. Sita Bai***¹: The Hon'ble Supreme Court has held that, the determinative test is whether the wife is unable to maintain herself, having regard to the status of the parties and the financial capacity of the husband; maintenance ensures a dignified existence, not mere animal subsistence.

10.2. ***Shamima Farooqui v. Shahid Khan***²: The Hon'ble Supreme Court has held that, the concept of sustenance imports the right to live with dignity commensurate with the husband's status and means; the husband cannot shirk his obligation by subterfuges.

10.3. ***Manish Jain v. Akanksha Jain***³: The Hon'ble Supreme Court has held that, potential capacity or the fact that the wife is educated does not bar maintenance unless she has sufficient independent income; parents' financial position is immaterial.

1 (2008) 2 SCC 316
2 (2015) 5 SCC 705
3 (2017) 15 SCC 801



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10.4. **Rajnesh v. Neha⁴**: The Hon'ble Supreme Court has held that, lays down disclosure, factors and methodology for determining quantum status of parties, reasonable needs, husband's actual/real income, liabilities, cost of living, standard enjoyed in the matrimonial home, etc.

11. There is no rigid formula; each case turns on its own facts.

12. Heard the learned counsels on either side and carefully perused the materials available on record.

Analysis:

13. ***Point (i) & (ii) - Entitlement under Section 125 Cr.P.C., 1973:***

The factum of marriage and separate residence is undisputed. The record shows that, though an e-visa (Ex.P-9) was obtained on 13.04.2021, the husband left alone on 19.04.2021 (Ex.P-11). The wife's case of unlawful demands and police mediation on 22.06.2021

⁴ (2021) 1 MWN (Cr.) 481 (SC)



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whereupon she left with her parents on the husband's consent by phone has not been dislodged before the learned Trial Court. These facts, on a preponderance of probabilities, establish neglect/refusal by the husband to cohabit and provide for the wife, amounting to constructive desertion.

14. The husband's plea that the wife is employed and earning more than Rs.15,000/- (Rupees Fifteen Thousand only) is asserted but not proved by cogent material; no salary slips, appointment letters, account statements or employer certificates are produced. Education (B.Tech) and good health by themselves do not disentitle the wife, in the absence of sufficient proof of independent income. This is squarely covered by **Manish Jain⁵ and Chaturbhuj⁶**. Entitlement is thus correctly affirmed.

Point (iii) - Quantum:

15. In cross-examination as D.W.1, the husband admits AED 17,415 per month (~ Rs.3,91,468/-). The wife also relies on Ex.P17 (matrimonial profile), Ex.P13, Ex.P18 and Ex.D12 indicating assets and

⁵ Supra 3

⁶ Supra 1



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rental income. The husband urges consideration of overseas rent (~Rs. 13 lakh/year) and living costs. While the Court must factor realistic liabilities, self-incurred lifestyle choices or higher foreign living standards cannot whittle down the statutory duty where means are substantial. The Court is concerned with capacity to pay, not with enabling luxury after neglecting a legally wedded spouse.

16. It is pertinent to note that the wife resides with aged parents and enumerates recurring expenses like that of housekeeping, gas, water, internet, electricity, maid, medical contingencies. In light of the husband's admitted gross earnings and assets, the award of Rs. 20,000/- (Rupees Twenty Thousand only) appears unduly conservative and not commensurate with the status/means. Equally, the prayer for Rs.1,00,000/- (Rupees One Lakh only) would verge on overcompensation in the present factual canvas.

17. Balancing the equities, the status of the parties, the cost of living, the standard of life in the matrimonial home, and the husband's admitted income with a measured allowance for compulsory foreign outgoings, this Court is of the view that a sum of Rs.50,000/- (Rupees



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Fifty Thousand only) per month would meet the ends of justice.

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Point (iv) - Commencement:

18. Under Section 125 Cr.P.C., 1973, maintenance may be awarded from the date of the petition or from the date of the order for reasons to be recorded. The learned Family Court, Srivilliputhur, has already directed payment from 28.02.2022 (date of petition). Having regard to the husband's means, the wife's lack of proven independent income, and the constructive desertion found herein, there is ample justification to direct that the enhanced amount shall also operate from 28.02.2022, with due credit for sums already paid under the impugned order and any interim orders of this Court.

19. The award of Rs.20,000/- (Rupees Twenty Thousand only) by the learned Family Court, Srivilliputhur, do not adequately reflect the status of the parties, the admitted earning capacity of the husband, and the reasonable needs of the wife. The calibrated enhancement to Rs. 50,000/- (Rupees Fifty Thousand only) per month harmonises the competing considerations of need and capacity, conforms to the



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principles in **Chaturbhuj**⁷, **Shamima Farooqui**⁸, **Manish Jain**⁹, and **the Rajnesh v. Neha**¹⁰ framework, and subserves the remedial object of Section 125 Cr.P.C., 1973.

20. In the result, CrI.R.C.(MD) No. 866 of 2023 filed by the husband is dismissed.

21. CrI.R.C.(MD) No. 906 of 2023 filed by the wife is partly allowed.

22. The monthly maintenance payable under Section 125 Cr.P.C., 1973, is enhanced from Rs.20,000/- (Rupees Twenty Thousand only) to Rs.50,000/- (Rupees Fifty Thousand only), payable from 28.02.2022 (date of petition), in substitution of the learned Family Court's quantification.

22.2. The direction to pay Rs.5,000/- (Rupees Five Thousand

⁷ (2008) 2 SCC 316

⁸ (2015) 5 SCC 705

⁹ (2017) 15 SCC 801

¹⁰ (2021) 1 MWN (Cr.) 481 (SC)



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only) towards litigation expenses is affirmed; in addition, the husband shall pay Rs.10,000/- (Rupees Ten Thousand only) as costs of these revisions to the wife within a period of four weeks.

22.3.After giving credit to all amounts already paid, the balance arrears at the enhanced rate from 28.02.2022 shall be paid within eight (8) weeks from today; the husband may, at his option, clear arrears in two equal instalments within the said period.

22.4. The monthly sum of Rs.50,000/- (Rupees Fifty Thousand only) shall be paid on or before the 10th of every English calendar month by NEFT/RTGS/IMPS to the wife's designated bank account. The wife shall furnish/confirm bank details within one week.

22.5. It is clarified that nothing in this order expresses any opinion on the merits of the parties' pending matrimonial proceedings (H.M.O.P. No.200 of 2023 for restitution; H.M.O.P. No.85 of 2024 for divorce).



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22.6. Liberty is reserved to either party to seek alteration under Section 127 Cr.P.C., 1973, upon proof of material change in circumstances.

22.7. In case of default in payment of current maintenance or arrears as directed, it shall be open to the wife to initiate proceedings as permissible in law, and the learned Family Court shall enforce recovery expeditiously.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

The Family Court,
Virudhunagar District at Srivilliputtur.



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L.VICTORIA GOWRI, J.,

Sml

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