

C.R.P.(PD)(MD).No.2272 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 26.03.2025

DELIVERED ON: 28.03.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**C.R.P.(PD)(MD).No.2272 of 2024
and CMP(MD).No.12880 of 2024**

Satheeskumar

....Petitioner/Respondent
/Petitioner

Vs

Gayathri

...Respondent/Petitioner
Respondent

PRAYE: Civil Revision Case is filed under Article 227 of Constitution of India, to set aside fair and decreetal order dated 27.06.2024 passed in I.A.No.2 of 2023 in HMOP.No.38 of 2023 on the file of the Subordinate Court, Lalgudi.

For Petitioner : Mr.R.S.Sivaram

For Respondent :Mr.T.J.Ebenezer Charles

ORDER

The present revision petition has been filed by the petitioner/husband in HMOP.No.38 of 2023 on the file of the Subordinate



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Court, Lalgudi challenging the order of interim maintenance of Rs.15,000/- granted by the trial Court towards wife and minor daughter.

2.The petitioner herein has filed the above said petition seeking divorce on the ground of mental cruelty. It is alleged in the petition that the petitioner was residing with his parents in village and the wife insisted to move to town. Due to matrimonial discord, the wife was continuously lodging complaints with his employer namely the police department. According to him, the said complaints resulted in an order of compulsory retirement. Later, on appeal, it was modified as postponement of two increments. Since the wife was continuously lodging police complaints as against the petitioner, the husband was constrained to file divorce application. The wife has so far not filed her counter to the divorce application.

3.Pending divorce petition, the wife had filed I.A.No.2 of 2023 seeking a sum of Rs.50,000/- as interim maintenance from her husband on the ground that she has to incur medical expenses to the minor daughter. It was further alleged that the husband was receiving a salary of more than Rs.40,000/- and he is having 5 acres of agricultural land and he is earning a sum of Rs.5,00,000/- as agricultural income.



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4.The husband has filed a counter contending that he had earlier filed HMOP.No.12 of 2022 for restitution of conjugal rights. The wife has not agreed for restitution, but was continuously lodging police complaints and therefore, he was constrained to withdraw the application for restitution of conjugal rights and forced to file a divorce petition. It was further contended that the wife is seeking exorbitant amount of Rs.50,000/- as monthly maintenance. It was further contended that the husband is duty bound to take care of his parents and for their medical expenses a sum of Rs.5000/- is required. It was further contended that the petitioner has availed a loan for his medical expenses and he is paying interest every month. It was further pointed out that the wife's father is a retired Sub-Inspector of Police and therefore, on his instruction, the wife is filing all those applications and pick up unnecessary quarrel with an intention to grab money from the husband.

5.The trial Court after considering the submissions made on either side, has arrived at a finding that the minor daughter is suffering from Congenital Myasthenia Gravis and therefore, the father is duty bound to take care of her medical expenses.



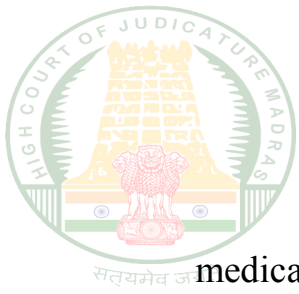
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6. Based on the above said findings, the trial Court has directed the husband to pay a sum of Rs.15,000/- per month towards interim maintenance pending disposal of the divorce proceedings. Challenging the same, the present revision petition has been filed by the husband.

7. The learned counsel for the revision petitioner had contended that the petitioner is a Police Constable and his net salary is Rs.30,000/-. According to him, he had to incur several expenses towards his maintenance and medical expenses of his parents. It is further contended that he has borrowed a hand loan of Rs.6,00,000/- from private parties and therefore, the total expense per month is Rs.41,000/-. He had further contended that in view of the complaint lodged by the respondent's wife, his two increments were postponed and therefore, he is drawing a lesser salary. The wife is residing away from him on her own volition and continuously lodging complaint before the police authority. Hence, she is not entitled to receive any maintenance.

8. Per contra, the learned counsel for the respondent/wife had contended that the vision of the child is affected and therefore, it requires medical treatment. The husband's father is a retired police official and therefore, the contention of the husband that he is taking care of his



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medical expenses is not factually correct. It is further contended that the personal loan alleged to have been taken by the husband is false and it is created only for the purpose of reducing the monthly maintenance amount.

9.Heard both sides and perused the material records.

10.The matrimonial relationship between the parties and they are blessed with a child aged 3 years old are not in dispute.

11.In the affidavit of assets and liabilities filed by the husband, there is no reference about any employment of the wife or any of her parents. Therefore, it is clear that the husband is liable to take care of his wife and his minor daughter. It is also an admitted fact that the vision of the minor daughter affected with Congenital Myasthenia Gravis and she requires regular and continuous medical treatment. Though the husband has contended that he has availed a personal loan of Rs.6,00,000/- from the third party for his medical expenses and he is repaying the same with interest every month, no records have been placed before this Court. The father of the husband is a retired police official and he is a pensioner. Therefore, the contention of the husband that he is taking care of his parents' medical expenses also cannot be accepted.



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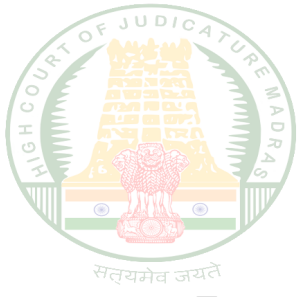
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12.As per affidavit of the assets and liabilities, the net income of the husband is Rs.30,000/-. Considering the medical expenses of the daughter and the maintenance of the wife, this Court is of the considered opinion that 1/3rd of the net income could be awarded as interim maintenance, pending disposal of the divorce petition. The order of the trial Court awarding maintenance at the rate of Rs.15,000/- per month is hereby modified as that of Rs.10,000/- per month from the date of filing of I.A.No.2 of 2023.

13.In the result, this Civil Revision Petition stands partly allowed to the extent as stated above. The trial Court is directed to dispose of the Divorce Petition on or before 31.07.2025. No costs. Consequently, connected miscellaneous petition is closed.

28.03.2025

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

- 1.The Subordinate Judge,
Lalgudi
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J

msa

Pre-delivery order made in
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