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Crl.R.C.(MD) No.1237 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.04.2025

Delivered on : 04.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.1237 of 2023
and
Crl.M.P.(MD)Nos.15658 and 17300 of 2023

Satham Hussain

: Petitioner

Vs.

1.Saraswathi Vennila

2.Minor.Ramsiya

3.Minor.Rasik

: Respondents

(Minor respondents 2 and 3 represented by
their guardian first respondent)

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of BNSS, to call for the records pertaining to the order passed by the Family Court, Sivagangai in M.C.No.17 of 2023, dated 31.07.2023 and set aside the same.

For Petitioner : Mr.S.Ramesh Kumar

For Respondents : Mr.C.Senthil Murugan, for R1.



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ORDER

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The Criminal Revision Case is directed against the order passed in M.C.No.17 of 2023, dated 31.07.2023 on the file of the Family Court, Sivagangai, in awarding maintenance.

2. It is not in dispute that the marriage between the revision petitioner and the first respondent was solemnized on 20.08.2012 and due to their wed-lock, they were blessed with a female child, the second respondent born on 08.05.2013 and a male child/third respondent born on 06.03.2015 and that subsequently, there arose some misunderstanding and issues between the couple and are living separately. As usual in matrimonial proceedings, the petitioner/husband and the first respondent/wife have made allegations and counter allegations against each other.

3.The first respondent for herself and on behalf of her minor children has laid the maintenance claim alleging that the petitioner and his mother had been compelling and threatening the first respondent to change her religion; that the petitioner is having illicit affairs with many women; that the petitioner after consuming liquor had been harassing her; that the petitioner has neglected the respondents and refused to maintain them and that the

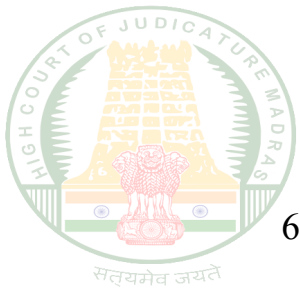


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petitioner is working in Electricity Board and is getting monthly salary of Rs.48,000/- and he is also getting Rs.20,000/- by car rental and is having sufficient means.

4. The revision petitioner has filed counter statement disputing the petition averments and further stated that the first respondent entertained unnecessary suspicion; that the first respondent had been quarrelling with the petitioner very often; that the first respondent used to leave the matrimonial home very often without intimating the petitioner; that the petitioner is always ready and willing to live with the first respondent, but the first respondent alone has deserted the petitioner and is living in her parents' home; that though the petitioner is getting monthly salary of Rs.48,000/- after all deductions, he is only getting Rs.14,000/- per month; that the petitioner has to maintain his aged parents and that therefore, the petition is liable to be dismissed.

5. During enquiry, the first respondent examined herself as P.W.1 and exhibited 10 documents as Ex.P.1 to Ex.P.10. The petitioner examined himself as R.W.1 and exhibited one document as Ex.R.1.

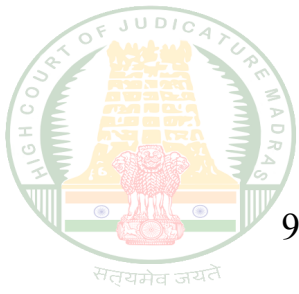


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6. The learned Judge of Family Court, considering the evidence available on record and on hearing the arguments of both the sides, has passed the impugned order, dated 31.07.2023, directing the petitioner to pay monthly maintenance at Rs.8,600/- to the first respondent and at Rs.3,600/- each to the respondents 2 and 3 and to pay the maintenance arrears within a period of three months. Aggrieved by the impugned order, the revision petitioner/husband has preferred the present revision.

7.The main contention of the revision petitioner is that after the separation, the petitioner did not file any divorce petition before any Court and the petitioner in his counter has specifically stated that he is ready to live with the first respondent, but the first respondent adamantly refused to live with the petitioner and that therefore, the first respondent is responsible for the unwanted separation and as such, she is not entitled to claim maintenance.

8. It is admitted by both the parties that the first respondent has been suffering from TB and is taking treatment. It is also not in dispute that the petitioner is working as Commercial Inspector in Tamil Nadu Electricity Board.



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9. As rightly pointed out by the learned counsel for the respondents, the petitioner in his evidence would admit that he does not know as to whether the first respondent had taken treatment for TB for 20 days at the time of birth of their second child.

10. The main complaint of the first respondent is that the petitioner as well as his mother had been compelling the first respondent to change the religion. As rightly pointed out by the learned counsel for the respondents, R.W.1 in his evidence would also admit that the first respondent named her second child as Abinesh, but the petitioner by taking the minor child with him named as Rasik. No doubt, the petitioner has denied the said version.

11. It is not in dispute that the respondents 2 and 3 have been under the care and custody of the first respondent. R.W.1 would also admit that the Aadhar card and Gas card of the first respondent are available with him and he does not know as to where his children are studying now.

12. Considering the evidence available on record and also the admission of the petitioner in his cross examination, it can easily be inferred that the petitioner has neglected the respondents and he is responsible for their separation. As already pointed out, the revision petitioner has admitted that he



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is getting monthly salary of Rs.48,000/-, but according to him, he is paying Rs.18,950/- for personal loan to TNEB Society ; Rs.700/- as Computer loan EMI; Rs.1,000/- for festival advance; Rs.1,170/- towards two wheeler EMI and Rs.6,500/- for personal loan availed at SBI and that he is getting Rs.14,389/- only and he has to manage his mother's medical expenses also.

13. The learned counsel appearing for the petitioner would submit that the petitioner had availed the above loans as per the directions of the first respondent and she is fully aware of the above loans. As rightly contended by the learned counsel for the respondents, such a plea was not at all raised in the counter statement and the respondents cannot be made responsible for the loans obtained by the petitioner at his whims and fancies.

14. It is pertinent to mention that while determining monthly maintenance for the wife and children, the Court should consider the husband's gross salary, taking into account only statutory deductions, rather than relying solely on his net salary. This approach ensures that the rightful maintenance of the wife and children is not compromised due to the husband's loan liability or other financial commitments. In the case on hand also, the petitioner/husband cannot evade his liability by citing deductions and lower net salary due to various loans.



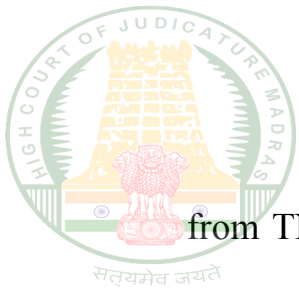
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15. The learned counsel appearing for the petitioner would submit that the Government Schools did not collect any type of fees from the students, but the petitioner was directed to pay Rs.300/- per month for school expenses and the same would go to show that the trial Court has passed the impugned order without application of mind.

16. I find absolutely no merits in the said contention. Just because the Government Schools did not collect any fees and they provide books and cloths, that by itself not sufficient for the children to go to school and the first respondent has to bear the incidental expenses such as purchase of stationary and etc.

17. The next contention is that the first respondent did not produce the rental receipt to show that she has been paying Rs.2,500/- as monthly rent. As rightly observed by the learned trial Judge, the respondent has not disputed the factum that the respondents have been residing in a rented house. It is not the case of the revision petitioner that he has been paying the rent for the said house. Though the first respondent has claimed Rs.4,500/- towards monthly rent, the learned trial Judge has rightly awarded Rs.2,500/- as monthly rent. The petitioner has alleged that he borrowed Rs.9,50,000/- as personal loan



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from TNEB Society, on the instructions of the first respondent and the first respondent has given Rs.1 lakh to her brother and another Rs.1 lakh to her sister and that the first respondent has purchased the household articles from the remaining amount. As rightly pointed out by the learned counsel for the respondents, the petitioner has not raised any pleadings nor adduced any evidence in this regard.

18. Considering the evidence available on record and taking note of the status of the parties and the current economic scenario, the learned Judge has rightly fixed the monthly maintenance at Rs.8,600/- for the first respondent and Rs.3,600/- for the respondents 2 and 3 and as such, the amount awarded cannot said to be excessive and is very much reasonable. Consequently, this Court concludes that the impugned order cannot be found fault with and that the Criminal Revision is liable to be dismissed.

19. In the result, the Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petitions are closed.

04.08.2025

NCC : Yes / No
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Internet : Yes / No
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K.MURALI SHANKAR, J.

das

To

1.The Judge, Family Court, Sivagangai.

Pre-delivery order made in
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and
Crl.M.P.(MD)Nos.15658 and 17300 of 2023

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