



C.R.P.No.487 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.487 of 2024
and
C.M.P.No.2294 of 2024

D.Venkatesan @ Elumalai

... Petitioner

VS.

R.Bhavani

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 29.09.2023 passed in I.A.No.1 of 2022 in H.M.O.P.No.27 of 2021 on the file of the Principal Subordinate Court at Ponneri, Tiruvallur District and allow the above Civil Revision Petition.

For Petitioner : Mr.R.Ramesh

For Respondent : Ms.V.Kaaviya
for M/s.A.R.Suresh



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4. Over ruling the objection raised by the petitioner, the Trial Court ordered maintenance at the rate of Rs.5,000/- per month each to the respondent/wife and her child. Aggrieved by the said order, the petitioner has come before this Court.

5. The learned counsel appearing for the petitioner vehemently contended that the marriage was not consummated due to the non-cooperative attitude of the respondent and therefore, the Trial Court committed an error in directing the petitioner to pay maintenance amount.

6. The petitioner filed the main original petition seeking dissolution of marriage on the ground of cruelty and desertion. In the main original petition, the petitioner has not specifically stated that marriage was not consummated. He only stated that the respondent lived in his house without love and affection. It is also seen from the typed-set of papers the marriage between the petitioner and respondent had taken place on 10.02.2017 and a child was born to respondent on 09.12.2017 (i.e., after 280 days from the date of marriage). Therefore, the respondent is also entitled to take advantage of presumption under Section 112 of the Indian Evidence Act, 1872. Further, in the absence of specific plea in the original petition filed by



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the petitioner seeking dissolution of marriage with regard to non-consummation of marriage, I am not unable to accept the contention raised by the petitioner in the counter to the interim maintenance application.

7. Further, the petitioner has not sought for declaration that marriage was nullity due to non-consummation. He only sought for dissolution of marriage on the ground of cruelty and desertion. Therefore, the objection raised by the petitioner with regard to the non-consummation cannot be accepted in the *prima facie* view of this Court.

8. It is the case of the respondent that the petitioner is a Flower Decorator during marriages and he has been earning Rs.40,000/- per month. On the other hand, the petitioner contends that he is only a daily wage worker, earning Rs.400/- per day. There is no concrete evidence available on record to establish the occupation and income of the petitioner. Taking into consideration the totality of the circumstances, this Court feels it would be appropriate to direct the petitioner to pay a sum of Rs.3,000/- per month each to the respondent and her child towards interim maintenance.



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9. In the absence of any evidence to prove the income of the petitioner, the quantum of interim maintenance ordered by the Trial Court appear to be on higher side. Therefore, the impugned order is modified by directing the petitioner to pay a sum of Rs.3,000/- per month each to the respondent and her child. The arrears of maintenance shall be paid within a period of six weeks from the date of receipt of copy of this order. If the conditional order passed by this Court is complied with by the petitioner, then the Trial Court shall make an endeavour to dispose of the original petition as expeditiously as possible.

10. With the above modification, the Civil Revision Petition is partly allowed. No costs. Consequently, the connected civil miscellaneous petition is closed.

03.02.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The Principal Subordinate Court,
Ponneri, Tiruvallur District.

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S.SOUNTHAR, J.

dm

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