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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CRP No. 1379 of 2024

CNR:{HCMA010462342024}

AND

CMP NO. 7388 OF 2024

P.Sabitha
W/o.G.Prathiban

..Petitioner(s)

Vs

Sri.G.Prathiban
S/o.Shri Gopal,

..Respondent(s)

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order passed in I.A.No.2 of 2023 in H.M.O.P.No.44 of 2021 dated 05.02.2024 by the learned Subordinate Judge, Mettupalayam by allowing the above Civil Revision Petition and render justice.

For Petitioner(s): Mr. G.Sugadev Rajaguru
For Respondent(s): Mr. Avanthika Vasu

Order

This Civil Revision Petition has been filed under Article 227 of the Constitution of India challenging the fair and decretal order passed in IA No.2 of 2023 in H.M.O.P.No.44 of 2021 dated 05.02.2024 wherein the application filed by the petitioner under Section 24 of the Hindu Marriage Act, seeking interim maintenance, came to be dismissed by the Court below.

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2. Heard the learned counsel appearing for both sides and carefully perused the materials available on record as well as the order passed by the Court below.

3. The respondent is the husband, who filed HMOP No.44 of 2021 seeking dissolution of the marriage that took place between the petitioner and the respondent on 15.05.2009 on the grounds of cruelty and adultery.

4. The petitioner/wife filed IA No.2 of 2023 seeking interim maintenance. The Court below dismissed the application on the ground that the petitioner is earning a sum of Rs.8,000/- per month that the respondent is taking care of the child and that the income earned by the petitioner is sufficient for her maintenance. Aggrieved by the said order, the present Civil Revision Petition has been filed before this Court.

5. When the matter was taken up for hearing today, the learned counsel for the respondent submitted that the main allegation made against the petitioner is that she is living in adultery and that the same has now been established by examining the child as PW2 in the main HMOP. The learned counsel further submitted that such a plea had also been raised in the counter filed in the present Interlocutory application. However, the Court below did not go into the said issue.

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6. In the considered view of this Court, the finding rendered by the Court below with regard to the income of the petitioner cannot be sustained. The Court below has held that the sum of Rs.8,000/- earned by the petitioner is sufficient for her maintenance. Such a finding, on the face of it, is perverse, particularly when the order was passed in the year 2024 and the Court below proceeded on the basis that a person could maintain herself with a monthly income of Rs.8,000/-. This finding is far from reality and on the face of it perverse.

7. The Court below has not gone into the issue of adultery raised by the respondent. Therefore, this Court does not want to go into the said issue.

8. In the light of the above discussion, the order passed by the Court below in IA No.2 of 2023 in HMOP No.44 of 2021 dated 05.02.2024, is hereby set-aside and the matter is remanded back to the file of the Trial Court for fresh consideration. The Trial Court shall take into consideration the claim made by the petitioner and the defence raised by the respondent and final order shall be passed in the interlocutory application, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

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9. In the result, this Civil Revision Petition is allowed in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

28-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

RKA
To
The Subordinate Judge, Mettupalayam

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N.ANAND VENKATESH J.

RKA

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