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Crl.RC.No.1642 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.1642 of 2024

and

Crl.M.P.No.13623 of 2024

D.Jayanth

... Petitioner

Vs.

1. Vaishnavi

2. Riya Jayanth

... Respondents

Prayer: Criminal Revision Case filed under Section 438 read with 442 of B.N.S.S.

to call for the records pertaining to M.C.No.291 of 2022 on the file of V Additional

Family Court, Chennai and set aside the order dated 11.07.2024.

For Petitioner : Mr.K.Balasubramaniam

For Respondents : Mr.Rahul Jagannathan



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ORDER

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This Criminal Revision Case has been filed by the petitioner to set aside the order in M.C.No.291 of 2022 on the file of V Additional Family Court, Chennai dated 11.07.2024.

2. The first respondent is wife and the second respondent is daughter of the petitioner herein. The first respondent along with the second respondent/minor child filed a maintenance case in M.C. No.291 of 2022 before the V Additional Family Court, Chennai seeking maintenance of Rs.75,000/- to the respondents. The learned Judge, Family Court partly allowed the petition and directed the petitioner herein to pay monthly maintenance of Rs.20,000/- to the first respondent/wife and Rs.10,000/- to the second respondent/child (in total Rs.30,000/-). Feeling aggrieved by the order of maintenance, the petitioner has filed the present revision.

3. The learned counsel for the petitioner submitted that the first respondent/wife left the matrimonial home without any valid reason. The fact is that she went to her parental home for delivery and thereafter, she did not return to



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the matrimonial home despite much efforts taken by the petitioner. Further, the

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petitioner filed a petition for restitution of conjugal right before the Family Court,

but the first respondent allowed the Judge, Family Court to pass ex-parte order and

thereafter it was set aside based on the application filed by the first respondent.

Even thereafter, the first respondent allowed the Court to pass ex-parte order and

once again, it was set aside. Thereafter, the first respondent filed the petition in

M.C.No.291 of 2022 seeking maintenance and during pendency of the

maintenance case, she also filed a petition for divorce on ground of cruelty,

desertion and permanent alimony. Meanwhile, the petitioner sent money order to

the first respondent, however she refused to receive the same. The learned counsel

submitted that a wife who voluntarily deserted her husband is not entitled for

maintenance. Further, the petitioner is getting income of only Rs.15,000/- per

month, whereas the Family Court has ordered maintenance of 30,000/- per month

which is not proportionate to the monthly income of the petitioner. The Judge,

Family Court failed to appreciate the evidence and materials produced by them.



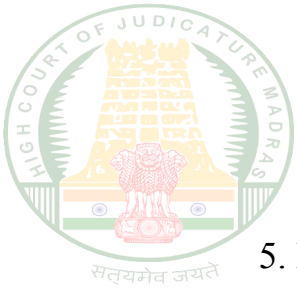
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Further, the first respondent refused to come and join the petitioner and she has

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clearly stated in her evidence that since the petitioner refused to give divorce, she filed the maintenance case. Therefore, the first respondent has not approached the Court with clean hands and she has approached the Court not for want of maintenance, but to harass the petitioner. Therefore, the order of maintenance passed by the Judge, Family Court is liable to be set aside.

4. The learned counsel for the respondents submitted that the petitioner suppressed the income in his affidavit of assets and liability. There is a bank transaction up to the tune of Rs.6,50,000/- per month in the bank account of the petitioner and he himself admitted during cross examination that he did not mention the same in his property statement. Therefore, considering the economical status of the petitioner and also the indebtedness of the respondents, the Judge, Family Court ordered maintenance of only Rs.30,000/- (Rs.20,000/- to the wife and Rs.10,000/- to the child) to the respondents. Therefore, there is merits in this revision.



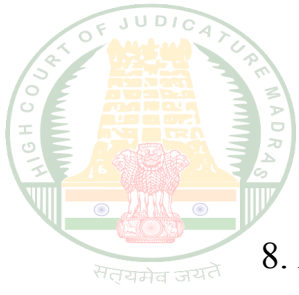
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5. Heard both sides and perused the materials available on record.

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6. The relationship between the petitioner and the first respondent is admitted. The paternity of the child/second respondent is admitted. The respondents are living separately away from the petitioner is also admitted. The petitioner's self employment and the said bank transaction are also admitted during cross examination, whereas he had not disclosed the said fact in the affidavit of asset and liability filed by him. Further, the petitioner has not proved that the first respondent is an earning member and she is capable of maintaining herself. More so over the second respondent is a minor child.

7. Under these circumstances, by considering the economical status of the petitioner, the Judge, Family Court rightly ordered maintenance of Rs.20,000/- to the wife/first respondent and Rs.10,000/- to the child/second respondent and this Court does not find any perversity or reason to interfere with the order passed by the Judge, Family Court and there is no merits in this revision.



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8. Accordingly, this Criminal Revision Case is dismissed. Consequently, the

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connected Miscellaneous Petition is closed.

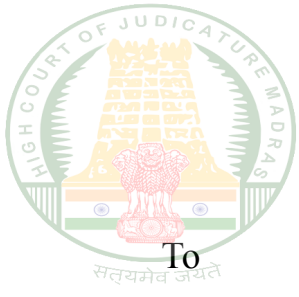
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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To
The V Additional Family Court,
Chennai



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P.VELMURUGAN. J.

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