



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JULY, 2024

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 4463 OF 2024

BETWEEN:

...PETITIONER

(BY SRI. S.G. RAJENDRA REDDY., ADVOCATE)

AND:





...RESPONDENTS

(BY SRI. D.P. MAHESH., ADVOCATE FOR R1;
R2 IS MINOR, REPRESENTED BY R1)

THIS CRL.P IS FILED U/S 482 OF CR.PC PRAYING TO SET ASIDE THE ORDER DATED 16.09.2021 PASSED BY THE PRL. DIST. AND SESSIONS JUDGE, CHITRADURGA IN CRL.RP. NO.27/2021 AND ALSO THE ORDER DATED 15.01.2021 PASSED BY THE PRL. CIVIL JUDGE AND JMFC, CHITRADURGA IN CRL.MISC.NO.280/2020.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE M.NAGAPRASANNA

ORAL ORDER

Petitioner is before this Court calling in question an order dated 16.09.2021 passed by the Principal District and Sessions Judge, Chitradurga in Crl.Rev.P.No.27/2021 by which the order of the Principal Civil Judge and JMFC, Chitradurga in Crl.Misc.No.280/2020 dated 15.01.2021 comes to be confirmed.



2. Heard the learned counsel Sri. S.G. Rajendra Reddy appearing for the petitioner and Sri. D.P. Mahesh appearing for the respondents.

3. Petitioner is the husband and first respondent is the wife and second respondent is the child, aged 5 years. Marriage between the petitioner and the first respondent takes place on 01.09.2017 and the child – second respondent is born from the wedlock. It transpires that later the relationship between the husband and the wife flounders and on floundering of the relationship, several proceedings were instituted by the wife against the husband, one setting the criminal law into motion for the offences punishable under Section 498A of Indian Penal Code, 1908 (hereinafter referred to as IPC for short) and Sections 3 and 4 of Dowry Prohibition Act, (hereinafter referred to as 'DP Act' for short) and the other invoking Section 12 of Protection of Women from Domestic Violence Act, (hereinafter referred to as DV Act for short).



4. The issue does not concern the merit of the matter in the crime or in the domestic violence proceedings. The wife files an application seeking interim maintenance from the hands of the husband, to herself and to the child, which comes to be allowed by the concerned Court in terms of which the order dated 15.01.2021 directing payment of interim maintenance at Rs.5,000/- each to first and second respondent. The husband challenges the same before the Principal District and Sessions Court in the Crl.R.P.No.27/2021 only to be dismissed. It is these orders that has driven petitioner to file the subject petition.

5. Learned counsel for the petitioner would submit that the petitioner is earning Rs.30,000/- per month and works as an Assistant Professor in a private educational institution and payment of Rs.5,000/- each to the wife and child would be onerous on him. He further submits that the entire school fee of the child is being paid by the petitioner from the year 2022 onwards. He would further



submit that the wife is employed in Infosys and therefore there is no necessity for the wife to seek maintenance and the Court granting maintenance in favour of the wife.

6. *Per contra* learned counsel representing the respondent –wife would refute the submissions to contend that after the birth of the child at the insistence of the petitioner she has quit the job and she has to now take care of the child. The amount that is ordered is not so exorbitant that the petitioner cannot pay. She would seek dismissal of the petition.

7. I have given my anxious consideration to the submissions made by respective counsels appearing for the petitioner and the respondents.

8. The only issue that calls for consideration is that:

"Whether the orders passed by the concerned Courts would warrant any interference or otherwise?"



9 The relationship between the parties is a matter of record. The husband is directed to pay maintenance at Rs.5,000/- to the wife and child each totaling to Rs.10,000/- per month. The submission of the learned counsel for the petitioner is that the petitioner is earning Rs.30,000/- and therefore he is not in a position to pay maintenance, is noted and only to be rejected.

10. As submitted by the learned counsel for the respondent – wife, is the wife has quit the job, to take care of the child at the insistence of the husband, it is the duty of the husband to maintain the wife and the child and not to wash of his hands from the responsibility of maintenance. The payment of the fees, paid that is by the petitioner, would not mean that the husband would not pay maintenance for the child, for living. Payment of the fees is all together different responsibility apart from the husband paying maintenance to maintain a child and the wife. If wife is now not in employment even otherwise, this is an order that directed to payment of interim



maintenance which will always be subject to further orders to be passed before the concerned Court.

11. Learned counsel appearing for the respondents submits that as on today no maintenance as directed by the concerned Court is paid by the husband except Rs.30,000/-. According to the learned counsel, arrears is Rs.3,70,000/-. On a pointed question to the learned counsel for the petitioner, as to when the arrears would be cleared, the learned counsel for the petitioner submits that the petitioner is not in a position to clear the arrears and nor pay maintenance. On all these factors entertaining a petition of the petitioner - husband who is in gross default in payment of maintenance, does not arise.

Finding no merit in the petition, the petition stands rejected.

Sd/-
(M.NAGAPRASANNA)
JUDGE