

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE, VELLORE,
VELLORE DISTRICT.**

**Present :-Tmt.N.Vasanthaleela, B.Com., LLM.,
Principal District Judge, Vellore.**

Wednesday, the 08th day of March 2023

I.A. 02 / 2022 in HMCMA.No. 19 / 2022

P. Sinduja ... Appellant

// versus //

B. Saravanakumar ... Respondent

This petition having stood over for consideration before me and coming for final hearing on 04.03.2023 in the presence of the Petitioner appeared in person, Thiru. M.Maran, Advocate for the Respondent, Respondent called absent, Counter not filed in spite of sufficient opportunity. Respondent set exparte, upon hearing Petitioner's side, and upon perusing the material case records and having stood over for consideration till this date, this Court delivered the following:-

ORDER

Petition filed by the Petitioner Under Section 151 of CPC to enhance the maintenance amount order by this Court to Petitioner/ Appellant by the way of cheque in the name of Petitioner / Appellant as per the Hon'ble High Court CRP.No. 104 of 2021 from the date of Order in I.A.No. 57 of 2014 in HMOP NO. 54 of 2013 Order dated 06.07.2016 and pass necessary Orders.

2) Brief averments of the affidavit filed by the Petitioner :--

The marriage between the petitioner and the respondent was

solemnized on 12.12.2010 at Sri Kamatchi Mahal, Burgur, Vellore as per Hindu Rites and Customs. The marriage between the petitioner and the respondent is still subsisting and out of the wedlock there were no issues between the petitioner and respondent. The petitioner demanded 200 sovereigns gold jewels, 10 Lakhs as dowry and 10 lakhs for purchasing the car. But, the parents of the respondent presented 75 sovereigns gold jewels, 5 laksh as dowry and 5 lakhs for purchasing car and spent Rs.10 lakhs for purchasing silver articles. After the marriage, the petitioner and respondent were lived together happily at his matrimonial home and thereafter the Respondent used to consume alcohol always and quarreled with the Petitioner at the instigation of his parents. The Respondent assaulted the Petitioner for the deficiency of $\frac{1}{2}$ sovereign in the gold jewels presented by her parents. After the marriage, the Respondent has not permitted the petitioner to go to her parental home for the Deepavali and Pongal festival. The Respondent used to consume alcohol always and scolded the respondent in filthy language.

The Respondent assaulted the Petitioner by using Pepsi bottle on her head and threatened to kill her. The Respondent forced the Petitioner to come along with the petitioner at midnight for purchasing liquor and tried to kill her. In one occasion, the Respondent pressed the neck of the Petitioner by using the Mangalyam and assaulted her. Therefore, the Petitioner left the matrimonial home on 07.08.2011 without any other options with the help of the others in the hospital quarters. On 06.10.2011 a panchayath was convened and the respondent also went to the matrimonial home to live along with him. However, the Respondent did not act as dutiful husband and he treated the Petitioner as slave and the Respondent has not provided proper food to the Petitioner.

The Respondent often threatened the Petitioner and not permitted to talk with her parents through phone. All the articles presented to the Petitioner at the

time of marriage were kept by the parents of the petitioner. The Respondent demanded a sum of Rs. 5,00,000/- from the Petitioner and assaulted the Petitioner to get money from her parental home, which is not tolerated by the respondent. On 16.11.2011 at 10.00 P.M the Petitioner was thrown out from the residence. Therefore, the Petitioner preferred a complaint to the Superintendent of Police, Krishnagiri which was not enquired by the police properly. The Respondent is agreed to live with the Petitioner in a separate house and on 11.01.2012 the respondent and petitioner resided in a house at Erumedu, Arni. However, the Respondent has not changed his illegal activities and he abused the petitioner in a drunken mood and assaulted her without any reason. Therefore, in order to safeguard her life, the petitioner left the matrimonial home.

Thereafter the Respondent filed HMOP No.54/2013 before Sub Court, Vellore for divorce. In the said Court itself, the Petitioner filed IA No.57/2014 seeking maintenance of Rs.25000/- per month and the same was allowed in part on 06.07.2016 by directing the Respondent to pay a sum of Rs.10,000/- per month as interim maintenance. The Respondent was not regular in his payment. Further the Respondent filed CRP No.3202/2016 before Hon'ble High Court, Madras and the same was dismissed on 24.03.2017. Now the Petitioner prays to enhance the maintenance amount.

3) Respondent / Husband not come forward to file any counter and hence the Respondent set exparte.

4) In continuation, no documents were filed and no oral evidence was adduced by both sides.

5) The Point for consideration in this petition is “Whether the Petition seeking enhancement of maintenance amount payable by the Respondent to the Petitioner is to be allowed or not?”

6) On Point :--

The Petitioner is the wife and the Respondent is the husband. The Petitioner filed this petition to enhance the maintenance amount already ordered by this Court. The Respondent did not come forward to file any counter objections and hence he was set aside.

7) Upon perusal of the case records it is evident that the Respondent / Husband filed a petition seeking divorce from the Petitioner / Wife in HMOP No.54/2013 on the file of Sub Court, Vellore and the same was dismissed by the said Court on 10.08.2022. Even though the relief of divorce is dismissed, the present petitioner who is the Respondent in the HMOP preferred appeal before this Court in HMCMA No.19/2022 to direct the Respondent to return 75 Sovereigns of Gold Jewels, to impose huge compensation for wasting the Court time for 11 years. Along with the appeal, the Petitioner has filed petition to enhance the maintenance amount.

8) Even though the Respondent / Husband entered his appearance in the main appeal proceedings, the Respondent did not come forward to file any counter and hence the Respondent was set aside. Admittedly, the Petitioner filed a petition seeking interim maintenance in IA No.57/2014 to direct the Respondent to pay interim maintenance of Rs.25000/- and after hearing both sides, the said petition was allowed in part thereby directing the Respondent to pay a sum of Rs.10,000/- per month. As against the said order, the Respondent preferred CRP

No.3202/2016 and the said CRP was dismissed by the Hon'ble High Court, Madras on 24.03.2017. It is further evident that the Petitioner had filed CRP No.104/2021 seeking direction and in the CRP also, conditional order has been passed directing the Principal Sub Court, Vellore to get the cheque from the Respondent and to hand over the same to the Petitioner and to continue the same. So, the granting of interim maintenance reached its finality. Even though the Petitioner sought for enhancement from the date of order passed in IA No.57/2014, only after the dismissal of the HMOP No.54/2013, the Petitioner / wife filed this petition to enhance the maintenance amount, hence the Petitioner is entitled for enhancement of maintenance amount only from the date of filing of this petition.

9) As far as fixing the quantum of maintenance is concerned, it is not in dispute that the Petitioner is a House wife and the Respondent is a Govt. Doctor even at the time of marriage in the year 2010. The petition seeking divorce filed by the Respondent was dismissed and as against the said dismissal, the Respondent / Husband had not preferred any appeal. The Petitioner contends that the Respondent is earning more than Rs.1,00,000/- which is neither refused nor rebutted by the Respondent by way of any oral and documentary evidence. The Petitioner has not mentioned any amount but only sought for enhancement of maintenance amount. Hence, considering the fact that the Respondent is a Govt.Doctor having more than 20 years experience, considering the fact that the marriage relationship between the Petitioner and Respondent was not at all dissolved till date, considering the fact that the Respondent not come forward to file any counter objections, this Court draws adverse inference against the Respondent and hence this Court is inclined to allow this petition thereby enhancing the maintenance amount from Rs.10,000/- to Rs.25000/-.

In the result, this petition is allowed thereby directing the Respondent to pay a sum of Rs.25,000/- per month payable by way of cheque to the Petitioner as monthly maintenance from the date of this petition (08.09.2022) until further orders; within 7th of Every Calendar month; failing which the Petitioner is at liberty to take further steps through Court by due process of law. That there is no order as to costs.

Dictated to the Steno Typist, typed by him directly, corrected and pronounced by me, this day, the 08th day of March 2022.

Principal District Judge,
Vellore, Vellore District.

ANNEXURES :-- NIL

P.D.J.