

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

Crl.R.C.No.1172 of 2014
and M.P.No.1 of 2014

A.Raji ... Petitioner

vs.

M.Sathiya ... Respondent

Petition filed under Section 397 and 401 of Cr.P.C. to set aside the order passed in CMP No.1150 of 2014 in Un.No.CRP ...of 2014 on the file of the Principal Sessions Judge, Namakkal dated 28.10.2014.

For Petitioner : No appearance
For Respondent : Mr.S.Balasubramanian

O R D E R

Earlier, on 05.01.2015, this Court passed the following order:

"Material on record discloses that the respondent-wife has filed M.C.No.15 of 2013, under Section 125 Cr.P.C., for maintenance, on the file of the Chief Judicial Magistrate, Namakkal District. On contest, vide judgment, dated 06.05.2014, the learned Judge directed maintenance, at the rate of Rs.5,000/- per month, to be paid by the petitioner-husband, before 5th of every month of English Calender.

2. Being aggrieved by the judgment, the petitioner has filed a revision petition before the Principal Sessions Court, Namakkal, with a delay of 48 days in preferring the revision. Jaundice was the reason stated for not filing the revision, within the stipulated time. However, the same was not substantiated by any documentary evidence.

3. Opposing the application for condonation, the respondent-wife had contended that though a sum of Rs.75,000/- was in arrears, for which, execution petition filed was also pending, revision filed before the Court below, with a

delay, was only to protract the execution. The petitioner is stated to be a Professor in Economics in MGR Arts and Science College, Hosur, Vellore District. Finding that the petitioner had failed to pay maintenance, from the date of presentation of M.C.No.15 of 2013, ie., on 28.02.2013 till the date of order of the trial Court, ie., on 06.05.2014, the learned Principal Sessions Judge, Namakkal, vide order, dated 28.10.2014, has directed payment of Rs.75,000/- to the respondent-wife, on or before 11.11.2014. The Court below has further directed that a sum of Rs.2,000/- has to be paid by the petitioner-husband, to the District Legal Services Authority, Namakkal.

4. Though the conditional order, dated 28.10.2014, in C.M.P.No.1150 of 2014, in the unnumbered Criminal Revision case, on the file of Principal Sessions Judge, Namakkal, is assailed on merits, this Court is not inclined to adjudicate the same, for the reason that the petitioner-husband has not even paid maintenance to his wife, respondent herein, from the date of presentation of M.C.No.15 of 2013, ie., on 28.02.2013 till the date of order of the trial Court, ie., on 06.05.2014.

5. Execution petition is also stated to be pending, on the date of condonation petition. The contention of the petitioner-husband that the respondent-wife is an M/Sc., B.Ed., graduate and that she is working as a teacher in National Metric School, Singalandapuram and earning Rs.20,000/- per month, is also not supported by adducing any documentary evidence. Perusal of the order made in C.M.P.No.1150 of 2014, dated 28.10.2014, shows that the petitioner-husband has produced only one document, Ex.R1 - Potentiality Certificate.

6. However, Mr.D.O.Kaviyanathan, learned counsel for the petitioner submitted that the arrears of Rs.75,000/- would be paid to the respondent-wife, in two instalments. Recording his submission, this Court is inclined to direct the petitioner to pay the abovesaid sum in two instalments. Payment of 1st instalment would be on or before 20.01.2015 and that the 2nd instalment is, on or before 04.02.2015.

2. Subsequently, on 05.02.2015, there was no representation for the petitioner. Having regard to the submission of the learned counsel for the respondent, this Court ordered as follows:

"3. Mr.S.Balasubramanian, learned counsel for the respondent/wife submitted that in the petition filed under Section 128 Cr.P.C., for enforcement of the order made in M.C.No.15 of 2013 dated 06.05.2014, the Court below has ordered NBW and it is stated to be pending.

4. As the petitioner has failed to comply with the directions of this Court dated 05.01.2015, no sooner the warrant to enforce the payment of maintenance, the same shall be executed in the manner as provided for under the Code."

3. Today also, there is no representation for the petitioner. Considering the attitude of the petitioner, and having regard to the orders stated supra, this Court, deems it fit to dismiss the Criminal Revision Case for default. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Gms

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To
The Principal Sessions Judge, Namakkal.

1 cc to Mr. S.Balasubramanian, Advocate, SR.No.12010

Cr1.R.C.No.1172 of 2014

pmk.10.3.2015