

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26-08-2015

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.893 of 2015
and
M.P.No.1 of 2015

Neeraj Kumar

... Petitioner

Vs.

1. Abilasha
2. Minor Nishtha Govil
F/5 years
D/o.Neeraj Kumar
Minor being represented by
her mother Abilasha
18, Flat No.115
1st Floor, Gowriranka Enclave
K.N.K.Road
Erode-3.

... Respondents

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the order, dated 24.11.2014 made in M.C.No.103 of 2014 on the file of the Judge, Family Court, Erode.

For Petitioner : Mr.L.Mouli
For Respondents : Mr.Anil Relwani
for M/s.Sankalp Associates

ORDER

The first respondent/wife has filed a complaint against the petitioner/ husband under Domestic Violence Act and also filed a petition before the Family Court, Erode, seeking maintenance, in which, the husband was set ex parte and an order was passed on 24.11.2014 directing the husband to pay maintenance of Rs.10,000/- to the wife and minor daughter. The petitioner/husband has filed the above revision, seeking to set aside the ex parte order.

2. Mr.L.Mouli, learned counsel for the petitioner would submit that the Family Court has directed the petitioner to pay Rs.20,000/- on or before 03.09.2015. He would further submit that the initial payment of Rs.10,000/- was already paid and the balance payment of Rs.10,000/- has to be paid by the petitioner on or before 03.09.2015 and to show his bona fide, he is prepared to pay that amount. He

would further submit that insofar as to the maintenance amount of Rs.5,000/- to the second respondent/ minor daughter is concerned, he is ready and willing to continue to pay regularly without fail. He would further add that the petitioner wants to contest the Maintenance Case, as he was not given an opportunity to contest before the Family Court.

3. Mr.Anil Relwani, learned counsel appearing for the respondents has got no serious objection. He would only state that the amount has to be paid by the petitioner in time.

4. Heard both sides. By consent, the main Criminal Revision Case itself is taken up for final disposal at the stage of admission itself.

5. Having regard to the fact that the order passed by the Family Court is an ex parte order and further, the Family Court has awarded a sum of Rs.10,000/- per month as maintenance only on the basis that there was no documentary evidence available, apart from that, in my considered opinion, both sides need to produce documentary evidence to prove their case and therefore, the order passed by the Family Court, dated 24.11.2014, is set aside and the Criminal Revision Case is allowed and the matter is remitted back to the Family Court, which shall give a fresh notice to both sides and after giving an opportunity of hearing to both parties, shall decide the matter afresh, on merits and in accordance with law, as expeditiously as possible. During pendency of the Maintenance Case, the petitioner/husband is directed to continue to pay a sum of Rs.5,000/- to the second respondent/minor daughter on or before 5th of every succeeding English Calendar month and the petitioner is further directed to deposit the balance arrears of maintenance to the credit of M.C.No.103 of 2014 on the file of the Family Court, Erode, within a period of eight weeks from the date of receipt of a copy of this order, apart from the sum of Rs.10,000/-, which has to be paid by the petitioner on 03.09.2015. The petitioner/husband is directed to co-operate for the early disposal of the Maintenance Case.

Sd/-

Assistant Registrar(CS III)

//True Copy//

paa
To

Sub Assistant Registrar

The Judge,
Family Court,
Erode.

Cr1.R.C. No. 893 of 2015

KU(CO)CA(18/09/2015)