

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2015

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.O.P.No.23777 of 2015
and M.P.No.1 of 2015

S.Chandrasekaran

... Petitioner

Vs.

R.Srimathi

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C praying to set aside the order dated 27.04.2015 made in C.M.P.No.327 of 2015 in C.R.P.No.6 of 2015 on the file of the leaned Principal Sessions Court, Namakkal, by allowing this Criminal Original Petition.

For Petitioner : Mr.N.Manokaran

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 27.04.2015 made in C.M.P.No.327 of 2015 in C.R.P.No.6 of 2015 on the file of the leaned Principal Sessions Court, Namakkal.

2. Heard Mr.Manokaran the learned counsel for the petitioner.

3. The respondent/wife initiated proceedings under Section 125 Cr.P.C., in M.C.No.9/2013 against this petitioner before the learned District Munsif cum Judicial Magistrate, Paramathi. The Trial Court by order dated 06.03.2015 in M.C.No.9 of 2013 has directed the petitioner/husband to pay a sum of Rs.1,700/- per month as maintenance to the respondent/wife.

4. Aggrieved by the order passed by the Trial Court, the petitioner/husband approached the learned Principal Sessions Judge, Namakkal in CRP.No.6 of 2015 and prayed for interim stay of Trial Court's order in CMP.No.327 of 2015. The Principal District Judge, Namakkal by order dated 27.04.2015 in CMP.No.327 of 2015 has granted interim stay on condition that, the petitioner shall pay the maintenance amount to the respondent from the date of presentation of MC petition till the date of order passed by the Trial Court and also pay a further sum of Rs.2,000/- to the District Legal Services

Authority, Namakkal, challenging which, the petitioner/husband is before this Court.

5. It is seen that the Trial Court has ordered a sum of Rs.1,700/- per month as maintenance to the wife. Admittedly, the petitioner/husband has not paid any amount till date and therefore, the wife had approached the learned Magistrate under Section 128 Cr.P.C.,

6. The learned counsel for the petitioner submitted that the petitioner is an agricultural coolie and he does not have means to pay the entire arrears as directed by the Sessions Court.

7. Though this Court does not find any serious infirmity in the order passed by the Sessions Court, yet it is seen that the Sessions Court has not provided any amount as maintenance, during the pendency of the revisional proceedings. Under such circumstances, this Court is of the view that the order passed by the Sessions Court would be modified. Accordingly, the order dated 27.04.2015 in CMP.No.327 of 2015 in CRP.No.6 of 2015 passed by the learned Principal Sessions Judge, Namakkal is modified as follows :

a) The petitioner shall pay 50% of the arrears of maintenance calculated from 06.09.2013 to 27.04.2015. This amount shall be deposited by the petitioner/husband to the credit of M.C.No.9 of 2013 before the District Munsif cum Judicial Magistrate, Paramathi, within four weeks from the date of receipt of a copy of this order. On such deposit, the respondent/wife is entitled to withdraw the same.

b) The petitioner/husband shall continue to pay a sum of Rs.1,000/- from May 2015 as monthly maintenance by depositing the same to the credit of M.C.No.9 of 2013 before the learned District Munsif cum Judicial Magistrate, Paramathi till disposal of CRP.No.6 of 2015. On such deposit, the respondent/wife will be entitled to withdraw the same. The sum of Rs.1,000/- payable from May 2015 to September 2015 shall be deposited within two weeks from the date of receipt of a copy of this order. From October 2015 onwards, the petitioner/husband shall deposit the sum of Rs.1,000/- per month before 10th of every English calendar month.

8. On the aforesaid conditions, there will be an interim stay of the operation of the order dated 06.03.2015 in M.C.No.9 of 2013 till the disposal of CRP.No.6 of 2015 by the Sessions Court. If the petitioner/husband does not comply with this order, it is open to the respondent/wife to proceed against this petitioner under Section 128 of Cr.P.C.,

With the above directions, this Criminal Original Petition is closed. Consequently, connected miscellaneous petition is also closed.

ds

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

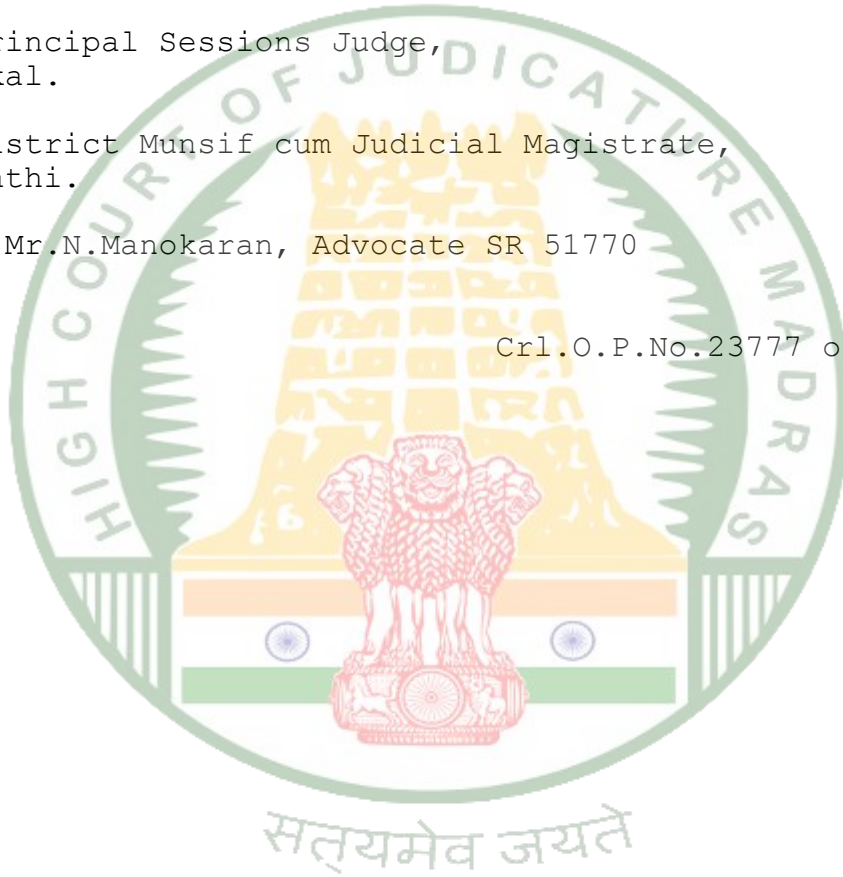
To

1. The Principal Sessions Judge,
Namakkal.
2. The District Munsif cum Judicial Magistrate,
Paramathi.

+ 1 cc to Mr.N.Manokaran, Advocate SR 51770

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Cr1.O.P.No.23777 of 2015



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