

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.1122 of 2013

and

MP. Nos.1 & 2 of 2013

and

MP. No.1 of 2015

Raj Kumar

Vs

Petitioner

Rathika

Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., praying to set aside the order dated 21.09.2012 made in Crl.R.C. No.19 of 2012 on the file of the II Additional District & Sessions Court, Tiruppur in MC.No.5 of 2008 before the learned Judicial Magistrate, Palladam, by allowing this Criminal Original Petition before this Hon'ble Court.

For Petitioner :Mr.M.Guruprasad
For Respondent :Mr. S.N.Amarnath

ORDER

This Criminal Original Petition has been filed praying to set aside the order dated 21.09.2012 made in Crl.R.C. No.19 of 2012 on the file of the II Additional District & Sessions Court, Tiruppur in MC.No.5 of 2008 before the learned Judicial Magistrate, Palladam.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent.

3. It is seen that the respondent filed MC.No.5 of 2008 under Section 125 of Cr.P.C., against the petitioner before the learned Judicial Magistrate, Palladam, who allowed the petition on 13.09.2011 by awarding a monthly maintenance of Rs.2,000/- in favour of the respondent, payable with effect from the date of petition dated 02.04.2008.

4. The petitioner challenged the order of the learned Judicial Magistrate, Palladam in Crl.R.C.No.19 of 2012 before the learned II Additional District and Sessions Judge, Tiruppur. Since the petitioner did not pay the batta, Crl.R.C.No.19/2012 was dismissed by

the learned Judge on 21.09.2012, aggrieved by which, the petitioner is before this Court.

5. Mr.S.N.Amarnath, the learned counsel appearing for the respondent wife submits that as on date a sum of Rs.1,54,000/- is due and payable by the petitioner to the respondent.

6. Be that as it may be, this Court is of the view that it will serve the interest of justice, if the petitioner is given an opportunity to present his case before the Sessions Court, but on certain conditions. The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One lakh only) within four weeks from the date of receipt of a copy of this order to the credit of Crl.R.C.19 of 2012 before the II Additional District and Sessions Court, Tiruppur, and on such deposit, the respondent wife will be entitled to withdraw the amount. It is further ordered that on such deposit, Crl.R.C.No.19 of 2012 should be restored on file and shall be heard on merits by the learned II Additional District and Sessions Judge, Tiruppur. Failure to deposit, will entail confirmation of the order dated 21.09.2012 and respondent wife will be entitled to resort to the recovery proceedings as adumbrated in the Code.

With the above direction, this petition is disposed of. Consequently, connected miscellaneous petitions are closed.

ds

s/d-
Deputy Registrar(J)

True Copy

Sub-Assistant Registrar

To

1. The II Additional District and Sessions Judge,
Tiruppur.

2. The Judicial Magistrate,
Palladam.

+ 1 cc to Mr.M.Guruprasad, Advocate SR 33442

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