



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2015

CORAM:

THE HONOURABLE MRS.JUSTICE S.VIMALA

WEB COPY

Criminal Revision Case (MD)No.751 of 2013
and
M.P.(MD)No.1 of 2013

M.Narayanan

.. Petitioner

Vs.

Ponnalagu

.. Respondent

Revision is filed under Section 397 r/w 401 Cr.P.C. against the order passed in Crl.M.P.No.87 of 2013 in M.C.No.44 of 2013 dated 24.10.2013 by the learned District Judge, Family Court, Madurai.

For Petitioner : Mr.S.Samuel James Devasagayam
For Respondent : Mr.R.Anand

ORDER

Whether a revision petition is maintainable as against the interim maintenance ordered by the Trial Court is the issue canvassed in this revision petition.

2.Aggrrieved over the grant of interim maintenance at Rs.1,500/- per month from October, 2000 to the wife, the husband has filed this revision petition.

3.The main contention of the learned counsel for the respondent is that there cannot be the remedy of revision as against the interim order passed and hence, the revision petition is not maintainable.

4.In order to appreciate this contention, it is necessary to look into the factual aspect. The revision petitioner did not file any objection to the petition filed for interim maintenance. Even then, the order for interim maintenance is provisional in nature, which is liable to be modified or even cancelled. The husband should have filed an application to have the order of interim maintenance either to be modified or set aside. That has not been done.

5.As the revision petitioner did not file the objection, the Court has passed the order with available material. But, as against the order for interim maintenance, the revision petition is maintainable as per the dictum laid down in Manish Aggarwal vs. Seema Aggarwal and Others (FAO No.388 of 2012; CM No.15667 of 2012 & CM No.15668 of 2012), where-under it has been held as follows:



"26. We, thus, conclude as under:
i) & ii)

iii) The remedy of criminal revision would be available qua both the interim and final order under Sections 125 to 128 of the Cr.P.C. under sub-section (4) of Section 19 of the said Act. iv. As a measure of abundant caution we clarify that all orders as may be passed by the Family Court in exercise of its jurisdiction under Section 7 of the said Act, which have a character of an intermediate order, and are not merely interlocutory orders, would be amenable to the appellate jurisdiction under sub-section (1) of Section 19 of the said Act."

6. Therefore, the contention that revision is not maintainable as against the order of interim maintenance, cannot be upheld.

7. In the grounds of revision, it is alleged that there had been a decree for divorce against the wife and therefore, the Court ought not to have awarded interim maintenance. The Trial Court has given a clear finding that no document was placed before the Court to show that there is an order of divorce as against the wife. Therefore, the order passed for interim maintenance does not suffer from any illegality. On this ground, the revision petition is liable to be dismissed.

8. In the result, this Criminal Revision Petition is dismissed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

The District Judge, Family Court, Madurai.

+1 cc to MR.S.Sitharthan, ADVOCATE, SR No.50197.

RJ2

TE/SKS-RR/SAR(J) 14/09/2015 2P/2C

Cr1.R.C. (MD) No.751 of 2013
and
M.P. (MD) No.1 of 2013
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