

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.11788 of 2016

Viswanathan

... Petitioner

vs.

Renuka

... Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. to direct the Family Court, Puducherry to dispose of Crl.M.P.No.131 of 2013 filed by the petitioner along with Crl.M.P.No.80 of 2011 filed by the respondent in M.C.No.48 of 2006.

For petitioner : Mr.T.M.Naveen

For respondent : Mr.V.V.Sairam

ORDER

This petition has been filed to direct the Family Court, Puducherry to dispose of Crl.M.P.No.131 of 2013 filed by the petitioner along with Crl.M.P.No.80 of 2011 filed by the respondent in M.C.No.48 of 2006.

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

3. On 04.07.2016, this Court passed the following order:

This petition has been filed to direct the Family Court, Puducherry to dispose of Crl.M.P.No.131 of 2013 filed by the petitioner along with Crl.M.P.No.80 of 2011 filed by the respondent in M.C.No.48 of 2006.

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

3. For the sake of convenience, the parties will be referred to by their name.

4. Viswanathan got married to Renuka on 10.02.2000 and their marriage ran into rough weather and the parties got estranged. Renuka filed M.C.No.48 of 2006 before the Family Court, Puducherry for maintenance under Section 124 Cr.P.C. which was dismissed by the Court on

18.07.2007, aggrieved by which Renuka preferred Crl.R.C.No.1285 of 2007 before this Court. This Court heard both parties and by order dated 25.04.2011, allowed Crl.R.C.No.1285 of 2007 as follows:

"21. In fine,

The Criminal Revision is allowed.

The order passed by the trial Court is hereby set aside. The petitioner/wife is entitled to Rs.25,000/- per month from the respondent from the date of petition. The respondent/husband is directed to pay the amount on fifth of every month from the succeeding month."

5. Viswanathan's appeal to the Supreme Court also failed. Thus Viswanathan is liable to pay Rs.25,000/- [Rupees twenty five thousand only] per month to Renuka from the date of petition, namely from 09.10.2006. Since Viswanathan did not make the payment, Renuka filed M.P.No.80 of 2011 in M.C.No.48 of 2006 before the Family Court, Puducherry for enforcement of the order of maintenance and admittedly, Viswanathan has paid Rs.15,00,000/- [Rupees fifteen lakhs only] towards arrears of maintenance. While so, Viswanathan filed Crl.M.P.No.131 of 2013 in M.C.No.48 of 2006 before the Family Court, Puducherry for alteration of the maintenance amount of Rs.25,000/- on the ground that Renuka had suppressed her true income in Crl.R.C.No.1285 of 2007.

6. Mr.T.P.Manoharan, learned Senior Counsel for Viswanathan submitted that there are enough materials at hand for Viswanathan to prove that Renuka is having sufficient income and therefore, the maintenance amount should be altered.

7. In the considered opinion of this Court, neither this Court nor the Family Court can go behind the order passed by this Court in Crl.R.C.No.1285 of 2007, especially in view of the fact that the Supreme Court has also confirmed the same. Of course, a petition for alteration of maintenance is maintainable, but an order can be passed by the trial Court only after due enquiry. In the meantime, it is the bounden duty of Viswanathan to comply with the order passed by this Court in Crl.R.C.No.1285 of 2007 and pay the monthly maintenance till date. At this juncture, learned Senior Counsel for Viswanathan sought three months time to pay the arrears of maintenance. Accordingly, three months time is granted to Viswanathan to pay the arrears of maintenance to Renuka. This Court is of the view that until the entire arrears of maintenance is paid upto date to Renuka, this Court

cannot issue a direction as prayed for by Viswanathan to expeditiously dispose of Crl.M.P.No.131 of 2013 in M.C.No.48 of 2006.

Post on 06.10.2016 for reporting compliance."

4. Learned counsel for the petitioner submitted that the petitioner has complied with the order passed by this Court on 04.07.2016 and that he has paid the entire arrears of maintenance of Rs.15,25,000/- to the respondent/wife.

5. In view of the above, the Family Court, Puducherry, is directed to dispose of Crl.M.P.No.131 of 2013 in M.C.No.48 of 2006 within a period of six months from the date of receipt of a copy of this order.

With the above direction, this petition is closed.

gms

Sd/-
Assistant Registrar (J)
/TRUE COPY/
Sub-Assistant Registrar

To

1.The Family Court, Puducherry.

+1CC to MR.V.V.SAIRAM Advocate SR.NO.67642

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RV[CO]
MK:25/10/2016

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