

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.07.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.864 of 2015
and Crl.MP.No.2017 of 2016

R.Sundarapandian

.. Petitioner

Vs.

T.A.Mahalakshmi

.. Respondent

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 29.06.2015 made in CMP.No.78 of 2014 in MC.No.98 of 2007 on the file of the Additional Family Court, Coimbatore.

For Petitioner : Mr.P.Valliappan

For Respondent : Mrs.T.A.Mahalakshmi
Party in Person - No appearance.

ORDER

The criminal revision petition is directed against the order passed by the learned Additional Family Court, Coimbatore in CMP.No.78 of 2014 in MC.No.98 of 2007 dated 29.06.2015, for granting interim maintenance to the respondent.

2.The learned counsel for the petitioner mainly contended that the Family Court failed to see that the respondent does not have right to seek interim relief and also maintenance under Section 125 Cr.PC and failed to see that the petitioner is continuously harassed with a vengeance and the Family Court erred in granting excessive amount towards interim maintenance, which is liable to be dismissed. The learned counsel prays this Court to allow the revision petition by setting aside the order dated 29.06.2015 made in CMP.No.78 if 2014 in MC.No.98 of 2007 on the file of the Family Court, Coimbatore.

3. Heard the learned counsel for the petitioner. There is no representation on behalf of the respondent/Party-in-person. This Court perused the available records.

4. It is admitted by the petitioner that the present respondent is the wife of the revision petitioner. The petitioner filed HMOP.No.806 of 2007 in which IA.No.1025 of 2008 was filed by the respondent for interim maintenance, on 24.02.2010, the Family Court, Coimbatore ordered interim maintenance of Rs.4,000/-p.m. The petitioner failed to pay the arrears of interim maintenance and the

HMOP was dismissed. Against the said order, the petitioner/husband preferred CRP.No.445 of 2014, wherein interim stay was granted on 20.12.2013. Subsequently, the wife filed petition under Section 125 Cr.PC in MC.No.98 of 2007 seeking for maintenance. Pending M.C.No.98 of 2007, the wife filed petition in CMP.No.78 of 2014, seeking interim maintenance, the trial Court allowed the petition directing the respondent/husband to pay a sum of Rs.7,000/-p.m. towards interim maintenance from the date of petition and Rs.10,000/- towards litigation expenses. Challenging the said order, the husband filed the present revision before this Court.

5. It is admitted by the petitioner that in the year 2010 itself, a sum of Rs.4,000/-p.m. was ordered to be paid as interim maintenance and the arrears amount was not paid, hence the HMOP.No.806 of 2007 was dismissed. Hence, the order made in CMP.No.78 of 2014 dated 29.06.2015 directing the respondent/husband to pay a sum of Rs.7,000/-p.m. towards interim maintenance cannot be deemed as excessive amount.

6. The learned counsel for the petitioner further contended that the earlier order in IA.No.1025 of 2008 interim maintenance was granted to the wife, hence the claim of the petitioner/wife under Section 125 Cr.PC for maintenance and claiming interim maintenance in CMP.No.78 of 2014 has to be rejected. The above arguments advanced by the learned counsel for the petitioner cannot be accepted and the said argument is rejected.

7. The respondent/wife has every right to file petition under Section 125 Cr.PC for maintenance. The trial Court correctly perused the petition filed by the wife for interim maintenance and awarded interim maintenance of Rs.7,000/-p.m. This Court finds no illegality or infirmity in the order passed by the trial Court and the same does not warrant any interference by this Court.

8. In the result, the criminal revision petition stands dismissed. Consequently, connected miscellaneous petition is closed. Considering the pendency of the case, this Court directs the trial Court to dispose of the main case preferably within a period of two months from the date of receipt of a copy of this order and report the same to the Registry.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

1.The Additional Family Court, Coimbatore.

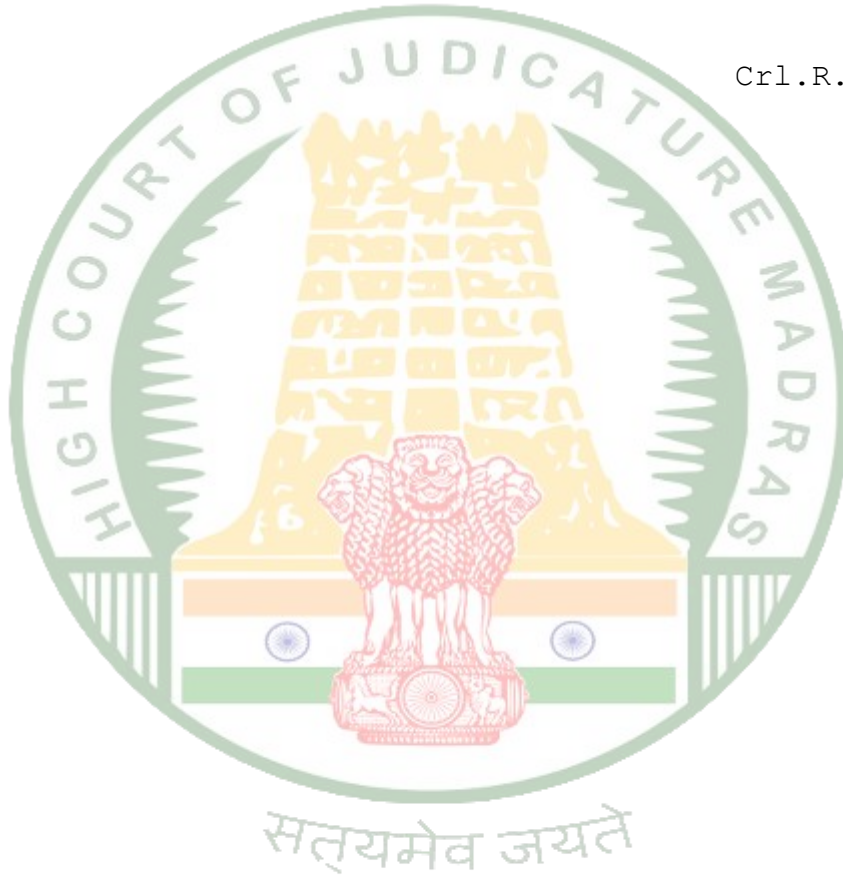
2.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.P.Valliappan,advocate,sr.40753

+3 cc's to Mrs.T.A.Mahalakshmi, party in person,sr.40455.

svi(co)
krd 2/8

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