

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1079 of 2016

1.Dr.Premalatha Gandhi

2.B.P.Amrita

3.B.P.Harinitha

(Respondents 2 and 3 are Rep by her mother
and Natural Guardian Dr.Premalatha Gandhi)

...Petitioners

vs.

Dr.C.Balamurugan

... Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C.
against to set aside the order dated 05.08.2016 passed in
M.P.No.344 of 2014 in M.C.No.192/2014 on the file of I
Additional Family Court, Chennai.

For Petitioner : M/s.Y.Kaja Navas

For Respondent : No Appearance

O R D E R

Challenging the order of learned Judge, I Additional Family
Court, Chennai passed in M.P.No.344 of 2014 in M.C.No.192/2014
on 05.08.2016, the present revision has been filed.

2. Respondent and first petitioner are husband and wife.
Petitioners 2 and 3 are their minor children. Petitioners moved
M.C.No.192 of 2014 on the file of learned Judge, I Additional
Family Court, Chennai, seeking maintenance in a sum of
Rs.65,000/- p.m. They have also moved M.P.No.344 of 2014 in
M.C.No.192 of 2014 seeking interim maintenance in a sum of
Rs.45,000/- p.m. Court below, under orders dated 05.08.2016,
directed the respondent to pay sums of Rs.7,000/-, Rs.4,000 and
Rs.4,000 p.m. to petitioners respectively, totalling a sum of

Rs.15,000/- p.m. towards interim maintenance. Against such order, petitioners have filed the present revision.

3. Heard learned counsel for petitioner. There is no representation for respondent.

4. First petitioner and respondent are doctors. On 24.10.2016, this Court passed the following order:

When the matter was taken up for hearing on 20.10.2016, there was no representation for the respondent. Hence, this Court directed the learned counsel for the petitioner to inform the date of hearing i.e., 24.10.2016 to the learned counsel for the respondent and adjourned the matter to 24.10.2016.

Accordingly, when the matter is taken up today for hearing, learned counsel for petitioners submitted that he has informed the date of hearing to the learned counsel for the respondent on 20.10.2016. But, today also there is no representation for the respondent.

In view of the above, the Registry is directed to issue Bailable Warrant to the respondent returnable by 07.11.2016.

5. On execution of the warrant issued against the respondent, he appeared before this Court on 07.11.2016 on which date the following order was passed:

"Recording the submission of learned counsel for respondent that respondent will effect payment in a sum of Rs.2,00,000/- (Rupees two lakhs only) towards the arrears of maintenance in to the credit of M.C.No.192 of 2014 on the file of Learned I Additional Judge, Family Court, Chennai, post on 14.11.2016.

6. Today, the matter is listed under the caption 'for orders' as per the direction of this Court dated 24.11.2016.

7. Learned counsel for petitioners submits that in keeping with the order of this Court dated 07.11.2016, respondent has paid a sum of Rs.2,00,000/- by cheque. Learned counsel submits that the salary of the respondent, who is the Chief Surgeon in Stanley Medical College, Chennai, is Rs.1,21,799/- and his take home salary is around Rs.70,000/-. His take home salary was much higher in the month of February 2016 and in preceding months, being around Rs.1,00,000/-. Deduction towards income tax was

Rs.14,000/- between April 2015 and December 2015. He suffered higher deductions there towards in a sum of Rs.24,602/- during January and February 2016.

8. Learned counsel for petitioners submits that given the respondent's high earning capacity and the fact that the first petitioner/wife's monthly take home salary is only Rs.29,419/-, the Court below has erred in granting interim maintenance only in a sum of Rs.7,000/- to the first petitioner and Rs.4,000/- per month to each of the minors/petitioners 2 and 3 against the claim of Rs.45,000/- p.m.

9. Learned counsel for petitioners also explains that the deduction of Rs.17,199/- suffered by the first petitioner is on account of having been forced to take a loan for payment of rental arrears. Learned counsel submits that Rent Control proceedings seeking eviction of petitioners is pending in R.C.O.P.No.1748 of 2014, on the file of XVI Court of Small Causes, Chennai, such proceedings having arisen owing to default in payment of rent. As the first petitioner has to take care of her mother and two children, she finds it extremely difficult to duly maintain the children with the meagre income. Learned counsel for petitioner submits that the respondent is still in arrears of Rs.2,85,000/-. Learned counsel for submits that the respondent has filed a counter in the main case. However, he has not done so in the petition seeking interim maintenance.

10. Considering the said submissions and the earning capacity of the petitioner, this Court interferes with the order under challenge. Accordingly, this Court directs the respondent to pay a sum of Rs.15,000/-, Rs.7,500/- and Rs.7,500 to petitioners respectively towards monthly interim maintenance from the date of petition before the Court below. The Court below is directed to dispose of the main case as expeditiously as possible, in any event, within a period of three months from the date of receipt of this order.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The I Additional Family Court,
Chennai.

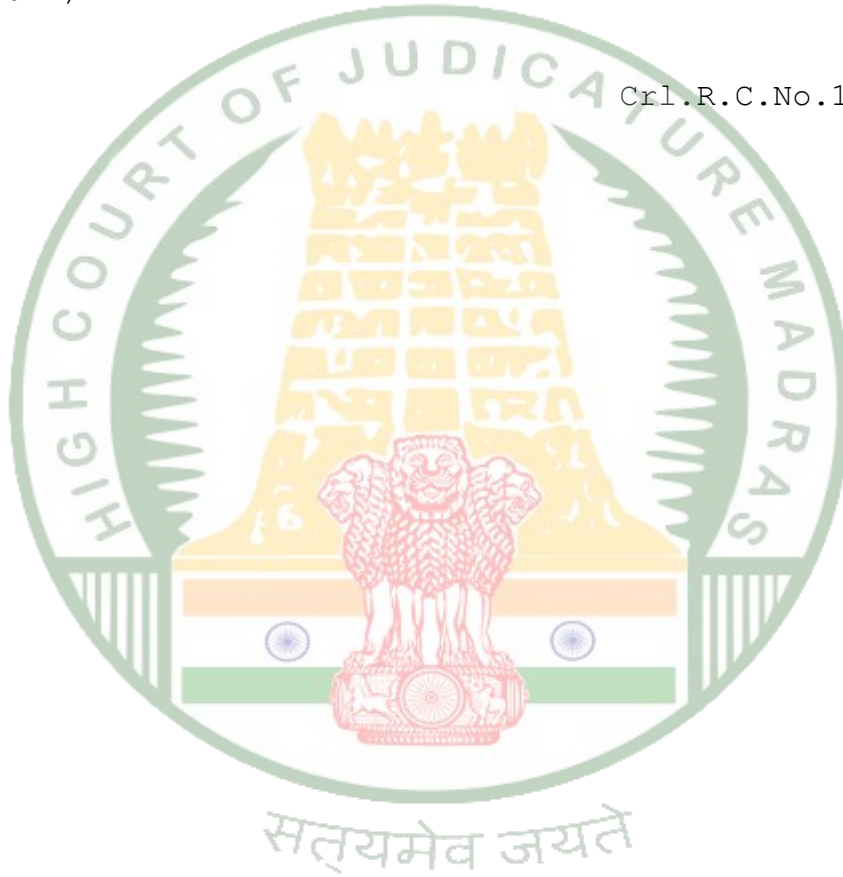
+1cc to Mr.Balaji, Advocate, S.R.No.70937

+1cc to Mr.Kaja Navas, Advocate, S.R.No.70427

MG(CO)

RS(02/02/2017)

Cr1.R.C.No.1079 of 2016



29.11.2016

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