

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2016

CORAM

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

Crl.O.P. No.20746 of 2016

and Crl.M.P.No.9656 of 2016

Manivannan @ Asaithambi

Petitioner/petitioner

vs.

1.Bhuvana @ Shobana

2.Minor Gokul

rep by mother the first respondent Respondents/Respondents

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the records relating to the order dated 23.06.2016 made in Crl.R.P.No.11 of 2015 on the file of the Principal District and Sessions Judge, Namakkal and set aside the same.

For petitioner : Mr.A.V.Arun

ORDER

This petition has been filed to call for the records relating to the order dated 23.06.2016 made in CRP.No.11 of 2015 on the file of the Principal District and Sessions Judge, Namakkal and set aside the same.

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

3. Bhuvana got married to Manivannan on 14.11.1996 and they have one child Gokul, through the wedlock. Their marriage ran into rough weather, resulting in the spouses getting estranged. Bhuvana filed M.C.No.35 of 2004 for maintenance u/s 125 Cr.P.C. before the Chief Judicial Magistrate, Namakkal and by order dated 17.02.2015, the Chief Judicial Magistrate has directed Manivannan to pay Rs.2,000/- per month as maintenance to minor Gokul until he attains majority and Rs.3,000/- per month to Bhuvana [thus totalling Rs.5,000/-]. Challenging the said order, Manivannan filed CRP No.11 of 2015 u/s 397 Cr.P.C. before the Principal Sessions Judge, Namakkal and in CMP No.573 of 2015, he prayed for stay of the trial Court's order. The Principal Sessions Judge, Namakkal passed the following order in CMP No.573 of 2015 in CRP No.11 of 2015 on 07.07.2015:

"In the result, the petition is allowed on the condition that the petitioner has to pay 50% of the maintenance amount to the respondents 1 and 2 from the date of presentation of MC petition till date of order of trial Court, i.e., from

1.10.2004 to 17.02.2015 and also a sum of Rs.2,000/- to the District Legal Services Authority, Namakkal on or before 07.09.2015. Call on 08.09.2015."

4. Since Manivannan did not comply with the interim order, the Principal Sessions Judge dismissed CRP No.11 of 2015 on 23.06.2016, challenging which Manivannan is before this Court.

5. At the time of admission, this Court directed Manivannan to deposit Rs.1 lakh to the credit of M.C.No.35 of 2004 and accordingly, he has deposited Rs.1 lakh, as could be seen from the memo dated 06.10.2016 filed along with a copy of the receipt dated 03.10.2016, purported to have been issued by the Chief Judicial Magistrate, Namakkal.

6. In view of the above, this petition is allowed and the order dated 23.06.2016 passed by the Principal Sessions Judge in CRP No.11 of 2015 is hereby set aside and the matter is remanded to be heard afresh by the Principal Sessions Judge, Namakkal. Consequently, connected miscellaneous petition is closed.

7. Bhuvana will be entitled to withdraw the sum of Rs.1 lakh that has been deposited by Manivannan in M.C.No.35 of 2004 before the Chief Judicial Magistrate, Namakkal. The Chief Judicial Magistrate, Namakkal is directed to issue notice to Bhuvana to collect the sum of Rs.1 lakh forthwith.

8. It is seen that this petitioner had not participated in the enquiry in CRP No.11 of 2015 before the Principal Sessions Judge, Namakkal and had been adopting dilatory tactics. The Principal Sessions Judge, Namakkal is directed to dispose of CRP No.11 of 2015 within three months from the date of receipt of a copy of this order and if the petitioner does not co-operate, it is open to the Principal Sessions Judge, Namakkal to peruse the trial Court records and pass final orders based on records.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

gms

To

1. The Principal District and Sessions Judge, Namakkal.
 2. The Chief Judicial Magistrate, Namakkal.
 3. The Public Prosecutor, High Court, Madras.
- +1 cc to MR.A.V.ARUN Advocate SR.NO. 59079

CrI.O.P. No.20746 of 2016

pvs[co]
RD 04/11/2016