

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.OP.No.22641 of 2016

and Crl.MP.No.10550 of 2016

S.Srijothi

.. Petitioner

Vs

K.Moorthy

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to modify the order dated 23.08.2016 in Crl.M.P.No.1718 of 2016 in C.R.P.No.7 of 2016 passed by the learned Principal Sessions Judge, Chengalpattu by increasing the deposit amount of Rs.1,00,000/- to Rs.2,50,000/-

For Petitioner : Mr.G.Magesh Kumar

O R D E R

This Criminal Original Petition has been filed to modify the order dated 23.08.2016 passed by the learned Principal Sessions Judge, Chengalpattu in Crl.M.P.No.1718 of 2016 in C.R.P.No.7 of 2016.

2. For the sake of convenience, the parties will be referred to by their name. Srijothi got married to K.Moorthy on 18.02.2008 and they have no children. The spouse got estranged, pursuant to which, Srijothi filed a petition in M.C.No.9 of 2010 before the Judicial Magistrate, Madurantakam under Section 125 Cr.P.C for maintenance, and the learned Magistrate by order dated 05.4.2016, has directed Moorthy to pay Rs.3,000/- per month for food; Rs.5,000/- per month for medical expenses and apparel, and Rs.10,000/- per month for shelter. Challenging the order dated 05.4.2016, Moorthy filed C.R.P.No.7 of 2016 before the Principal District Judge, Kancheepuram District at Chengalpattu and a petition in Crl.M.P.No.1718 of 2016, praying for stay of the order dated 05.4.2016 passed by the trial Court in M.C.No.9 of 2010 .

3.The operative portion of the order dated 23.08.2016 in Crl.MP.No.1718 of 2016 passed by the learned Principal District Judge, Kancheepuram District at Chengalpattu reads as follows :

"5. In the result, this petition is allowed. Stay is granted on condition to deposit a sum of Rs.1,00,000/- into the Court towards arrears of maintenance. The trial court is

directed to keep the same into the Court deposit till the disposal of this revision."

4. Aggrieved by the above order, Srijothi is before this Court. The learned counsel appearing for Srijothi submits that the Sessions Judge has only directed to pay Rs.1,00,000/-, but has not passed any order with regard to disbursement of the same to the petitioner. There is sufficient force in the contention of the learned counsel appearing for the petitioner.

5. If notice is ordered to Murthy, this will only further delay the proceedings in C.R.P.No.7 of 2016. Normally, when such interim orders are passed, the Court would order disbursal of the amount to the wife in consonance with the spirit of Section 125 Cr.P.C. Strangely, in the order dated 23.08.2016 passed by the Sessions Judge, there is no such consequential order. May be the learned Judge had left it on account of oversight.

6. However, this Court grants liberty to Srijothi to file an application before the learned Principal District Judge, Kancheepuram @ Chengalpattu in Crl.M.P.No.1718 of 2016 in C.R.P.No.7 of 2016 for disbursal of the amount and on such application being filed, the same shall be considered sympathetically. In any event, the learned Principal District Judge, Kancheepuram @ Chengalpattu is directed to immediately call for the records from the trial Court and dispose of C.R.P.No.7 of 2016 within six months from the date of receipt of a copy of this order.

With the above observation, this Criminal Original Petition is closed. Consequently, connected miscellaneous petition is closed.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

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ds

To

The Principal District Judge
Kancheepuram District @ Chengalpattu.

+1 cc to MR.G.MAGESH KUMAR, Advocate SR.NO. 57574
ks[co]
RD 04/11/2016

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