



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

CRL MP (MD) No.5379 of 2016

in

CRL.RC (MD) No.429 of 2015

WEB COPY

Marimuthukumar

... Petitioner

-vs-

T.Nithya

... Respondent

PRAYER: Criminal Miscellaneous Petition is filed, under Section 482 Cr.P.C., praying to set aside the order dated 14.03.2016 in Crl.R.C(MD)No.429 of 2015 and to restore the above Criminal Revision Case.

For Petitioner : Mr.A.Mohan

For Respondent : Mr.M.Saravanan

ORDER

Under Section 482 Cr.P.C., petitioner seeks to set aside the order passed by this Court in Crl.RC(MD)No.429 of 2015, dated 14.03.2016 and consequently, restore the Criminal Revision to file.

2. Petitioner is the husband of respondent. Marital discordance arose between them. They got separated. She sought for maintenance in M.C.No.6 of 2015 before the Family Court, Tirunelveli. On 27.07.2015, the learned Family Court Judge, passed orders under Section 125 Cr.P.C., directing the husband to pay her Rs.15,000/- per month. In the circumstances, the Petitioner filed Crl.RC(MD)No.429 of 2015.

3. As there was no representation for the revision petitioner, on 14.03.2016, the matter came before the Court. As there was no representation for the petitioner and the respondent counsel was ready to argue the case, the Learned Judge heard the matter and after noting down the elaborate submissions of the learned counsel for the respondent, dismissed the revision, holding as under:

"2.In the above mentioned circumstances and facts, it is found that there are no merits in the present Criminal Revision Case. Ultimately, the present Criminal Revision Petition is dismissed. Liberty is granted to the respondent to work out her remedy, in the manner known to law. Consequently, connected Miscellaneous Petition is closed."



4. Now, the petitioner wants setting aside of the said order on the ground that no opportunity was given to him.

5. The learned counsel for the respondent would submit that inspite of several opportunities, the revision petitioner had not appeared and he has delayed the matter.

6. In the circumstances, the learned Judge, considering the merit of the matter, passed orders on merits. It is a disposal on merits. Now, question is whether the said order dated 14.03.2016, could be set aside.

7. A learned Judge of this Court has applied his judicial mind and passed orders stating that he has passed the orders on merits. In such circumstances, another learned Judge of this Court cannot set aside the said order. It will be judicial indiscipline. In such circumstances, the order passed on merits, dated 14.03.2016, by a learned Judge of this Court cannot be set aside.

8. In view of the forgoings, this Petition is dismissed.

Sd/-
Assistant Registrar(CS II)

/True copy/

Sub Assistant Registrar

To

The Judge,
Family Court,
Tirunelveli

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in
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