

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 10.06.2016****CORAM:****THE HONOURABLE Dr. JUSTICE S.VIMALA****Cr1.O.P. (MD) .No.8844 of 2016**

V.Ganesan

.. Petitioner

Vs.

1.P.Nagajothi

2.Minor Rishikesh

.. Respondents

(Minor represented through his
natural guardian viz.,P.Nagajothi.)

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and set aside the dismissal order in Cr.R.P.No.12 of 2013 passed by the Principal District Judge, Srivilliputhur, dated 22.06.2015 against the order in M.C.No.32 of 2010 on the file of the Judicial Magistrate Court, Sivakasi, Virudhunagar District.

For Petitioner

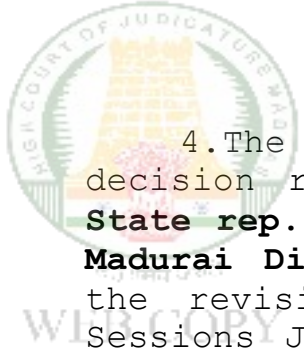
: Mr.G.Karuppasamy Pandian

ORDER

It is an application filed under Section 482 Cr.P.C., challenging the order, dated 22.06.2015, passed by the learned Principal Sessions Judge, Srivilliputhur, in Cr.R.P.No.12 of 2013, as against the order, dated 05.03.2012, passed in M.C.No.32 of 2010 by the learned Judicial Magistrate, Sivakasi, Virudhunagar District.

2.Heard the learned counsel for the petitioner.

3.The respondents herein, who are wife and son of the petitioner, had filed an application for maintenance in M.C.No.32 of 2010, which has been ordered on 05.03.2012 by the learned Judicial Magistrate, Sivakasi, Virudhunagar District, directing the petitioner herein to pay a sum of Rs.2,000/- to the first respondent and Rs.4,000/- to the second respondent. Challenging the grant of maintenance, the petitioner herein has filed a revision petition in Cr.R.P.No.12 of 2013 before the learned Principal Sessions Judge, Srivilliputhur. The revision petitioner was not ready for argument, despite sufficient time being given. On the date of hearing, the revision petitioner did not appear before the Court nor filed a petition stating reasons as to why he was not present before the revisional Court. Under such circumstances, the revision petition has been dismissed by the Court below, but without any discussion as to the merits of the matter. This is under challenge in this petition.



4.The learned counsel for the revision petitioner relied upon a decision reported in (2016) 1 MLJ (Crl.) 621 (D.Appinackkar Vs. State rep. by the Sub Inspector of Police, Elumali Police Station, Madurai District), wherein this Court has held that dismissal of the revision petition for default is not permissible and the Sessions Judge ought to have decided the matter on merits as per the decision of the Hon'ble Supreme Court in (2006) 10 SCC 472 (Jaspal Singh Vs. State of Punjab).

5.From the decision placed before this Court, it is clear that the order passed by the Sessions Court without any discussion on the merits of the matter is per se illegal and therefore, it cannot be allowed to stand. Further, the order without reasons is not order in the eye of law.

6.Under such circumstances, the order passed by the Principal Sessions Judge, Srivilliputhur, in Cr.R.P.No.12 of 2013 is set aside and the matter is remitted back and the learned Principal Sessions Judge, Srivilliputhur is directed to hear both the parties by issuing notice for their appearance on 27.06.2016 and pass order on merits and in accordance with law. It is made clear that the petitioner herein shall appear before the Court on all hearing dates without any default and the petitioner is expected to render assistance to the Court below to dispose of the matter on merits.

7.This Criminal Original Petition is accordingly disposed of.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate, Sivakasi.

2.The Principal Sessions Judge, Srivilliputhur.

+1cc to Mr.G.Karuppasamy Pandian, Advocate in SR.No.29512

gcg

JA-GSV-PM-SAR-II/15.06.2016/2P-4C

Crl.O.P (MD) No.8844 of 2016
10.06.2016