



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

Crl.R.C.(MD) No.572 of 2016

and

Crl.M.P.(MD) No.7243 of 2016

B.Karthikeyan

... Petitioner / Respondent /
Husband

-vs-

G.Roopavardhini

... Respondent / Petitioner /
Wife

PRAYER : Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records of the learned Family Judge, Tiruchirappalli, in M.C.No.140 of 2015 and set aside the Order, dated 30.03.2016.

For Petitioner: Mr.S.Deenadhayalan

For Respondent: Ms.T.Banumathi

O R D E R

As both the learned counsels representing the revision petitioner and the respondent are present and the scope involved in this revision is very narrow, we have decided to dispose of this revision today at the admission stage itself.

2. Roopavardhini / respondent and Karthikeyan / revision petitioner are spouses. The marital bondage arose between them on 09.09.2013 continuous even today. They were not blessed with any children. Subsequently, due to matrimonial discordance, they started living separately. She sought for maintenance in M.C.No.140 of 2015. Ultimately, it came to the file of the learned Judge, Family Court, Tiruchirappalli.

3. In the meanwhile, the revision petitioner got a good opportunity to work in Australia. He is working there. Finally, the maintenance case was taken up by the learned Judge, Family Court, Tiruchirappalli and the impugned order was passed on 30.03.2016, whereunder a monthly maintenance of Rs.15,000/- has been ordered to the respondent and the revision petitioner was directed to deposit the same on or before 5th of every English



4. Aggrieved, the husband has directed this revision.

5. The learned counsel for the revision petitioner would contend that already the personal appearance of the revision petitioner before the Trial Court has been dispensed with. He could not present for one hearing. In the circumstances, denying him reasonable opportunity, the Trial Court has passed the impugned order.

6. The learned counsel for the revision petitioner also would contend that the revision petitioner is ready to face the case on merits. He may be given an opportunity.

7. On the other hand, the learned counsel for the respondent would submit that the revision petitioner dragged his feet to the extent possible. Although he has become an absentee, his interest in the case is being taken care of by his father. But, there is no meaningful representation. In the circumstances, the Court has set him ex parte and passed the impugned order.

8. The learned counsel for the respondent also would submit that the revision petitioner has fell into arrears.

9. I have considered the rival submissions, perused the impugned order and the materials on record.

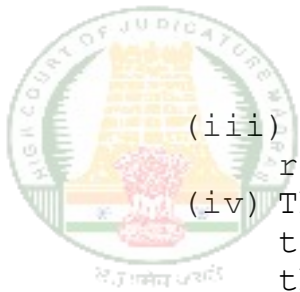
10. Ex parte disposal is unknown to the criminal law. So also ex parte conviction and ex parte sentence. But, the Criminal Procedure Code permits ex parte disposal of a maintenance case filed under Section 125 Cr.P.C. It is legally valid. However, such ex parte order of maintenance can be set aside by the same Court, because there is a provision to do so in the Criminal Procedure Code. But, an ex parte order of maintenance is no less a maintenance order. It has enforceability like an order passed by the Court on merits, until it is set aside in a manner known to law.

11. In the facts and circumstances, we have convinced that an opportunity should be given to the revision petitioner to put forth his case before the Trial Court and also to meet his wife's case. Let the petitioner / husband have an opportunity. And, by way of an interim measure, he shall also pay her maintenance during the pendency of the maintenance case.

12. In the circumstances, ordered as under:

- (i) The impugned order, dated 30.03.2016, passed in M.C.No.140 of 2015, by the learned Judge, Family Court, Tiruchirappalli, is set aside.

<https://hcservices.ecourts.gov.in/> The learned Judge, Family Court, Tiruchirappalli, will restore M.C.No.140 of 2015 to his file.



- (iii) Within four weeks of such restoration, the revision petitioner will file his counter.
- (iv) Thereafter, after giving reasonable opportunity to both sides, the learned Judge will dispose of the maintenance case expeditiously.
- (v) With effect from 01.09.2016 by 5th of every English Calendar Month, the revision petitioner shall deposit Rs.15,000/- (Rupees fifteen thousand only) in the Savings Bank Account of the respondent.
- (vi) The respondent will open a Savings Bank Account in her name, if she is not already opened and she will furnish her Bank Account Number to the revision petitioner through her counsel.
- (vii) Ultimately, if the learned Judge, Family Court, Tiruchirappalli, orders any maintenance in M.C.No.140 of 2015, the amount paid to her under this Court's Order shall be adjusted towards the said maintenance amount.
- (xiii) Accordingly, this criminal revision is disposed of. Consequently, connected criminal miscellaneous petition is closed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To:

The Judge,
Family Court,
Tiruchirappalli.

+1cc to M/s.S.Deenadhayalan, Advocate SR.No.46390

+1cc to M/s.T.Banumathy, Advocate SR.46600

Crl.R.C. (MD) No.572 of 2016
and
Crl.M.P. (MD) No.7243 of 2016

krk
SD/CK/30.08.2016/3P/4C