



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2016

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THE HONOURABLE MR.JUSTICE P.DEVADASSCrl.R.C.(MD)No.580 of 2016andCrl.M.P.(MD).No.7495 of 2016

Rathinam

... Petitioner

Vs.

1. Satheeswari @ Sathya
2. Minor Kaviyalakshmi
(Minor respondent No.2 is represented
by her mother and natural guardian/
first respondent).

... Respondents

Prayer: Criminal Revision Petition is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records pertaining to the order in M.C.No.15 of 2013 dated 26.10.2015 passed by the learned Judicial Magistrate, Periyakulam, Theni District and set aside the same by allowing this revision.

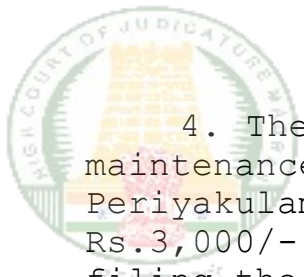
For Petitioner	:	Mr.K.Kannan
For Respondents	:	Mr.A.K.Manikkam

O R D E R

This revision is at the instance of Rathinam, who is the husband of the first respondent and father of the second respondent as against grant of maintenance to them ordered by the learned Judicial Magistrate, Periyakulam in M.C.No.15 of 2013 on 26.10.2015.

2. It is not in dispute that the first respondent became the wife of a tailor. He is Singapore tailor in Tirupur. It is a matter of common knowledge that now the tailors are also started charging tailoring fees considerably. As there is price increase, everyone increase their fees. So also the tailors.

3. The couples Rathinam/revision petitioner and Satheeswari @ Sathya/ first respondent were blessed with a daughter viz., Kaviyalakshmi. She is a minor. She is second respondent in this revision. The couples got entangled in a matrimonial dispute. They



4. The wife and daughter of the said Rathinam have sought for maintenance in M.C.No.15 of 2013. The learned Judicial Magistrate, Periyakulam on 26.10.2015, granted them maintenance at the rate of Rs.3,000/- each, totally Rs.6,000/- per month from the date of filing the maintenance petition.

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5. The learned counsel for the petitioner contended that no summons have been served upon him. Without following the proper procedure, he was set ex-parte. He was not given an opportunity to contest the case. He will face his wife's case. Further, he gets very less income.

6. On the other hand, the learned counsel for the wife and daughter submits that summons have been properly served upon the revision petitioner in accordance with law. Since the revision petitioner had failed to attend the Court, he was set ex-parte and the impugned order was passed. Further, he is earning very much as a tailor in Tirupur.

7. I have anxiously considered the rival submissions and perused the impugned order and also the materials on record.

8. In the facts and circumstances, there is no difficulty in giving an opportunity to the revision petitioner, so that, he can fight with his wife and also against his daughter on merits. But the problem is financial condition of his wife and daughter to sustain themselves and also to meet the expenses need to be spent to meet the maintenance case. Although maintenance cases are expected to be disposed of in a summary manner, but yet these cases are being dealt with like murder case, like a complicated civil suit. Resultantly, the wife and children have to wait in queue for a long time to see the colour of the coin from the packet of the husband. In the circumstances, Section 125 Cr.P.C., has been amended enabling the court to give interim maintenance and also amount to meet the expenses of the maintenance case. So, the revision petitioner shall pay maintenance by way of interim measure, till the disposal of the maintenance case.

9. In such circumstances, ordered as under:

(1) This revision is allowed.

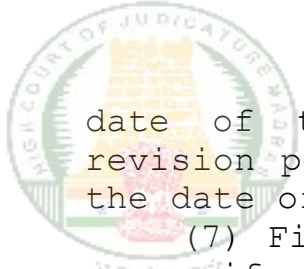
(2) The impugned order passed by the learned Judicial Magistrate, Periyakulam in M.C.No.15 of 2013 dated 26.10.2015 is set aside.

(3) The learned Judicial Magistrate, Periyakulam will restore M.C.No.15 of 2013 to its file.

(4) Both side shall appear before the said Court on 16.09.2016.

(5) Within two weeks of the said date, the revision petitioner shall file in his counter.

(6) 50% of the arrears of maintenance ordered by the learned Judicial Magistrate, Periyakulam in M.C.No.15 of 2013 from the



date of the maintenance petition shall be deposited by the revision petitioner before the said Court within three weeks from the date of receipt of a copy of this order.

(7) First respondent shall open a Savings Bank Account in her name, if she is not already opened and through her counsel, she shall furnish her S.B. A/C. No. to the revision petitioner.

(8) With effect from 01.09.2016, the revision petitioner shall deposit Rs.3,000/- each to the respondents 1 and 2 in the said Bank Account.

(9) The first respondent is permitted to withdraw the deposited amount from the Court and also from the Bank Account.

(10) The said payment is ordered by way of interim measure and in case, ultimately, in the M.C.No.15 of 2013, the Court orders maintenance, the said amount paid by way of interim measure shall be adjusted.

(11) As the Maintenance Case is of the year 2013, the learned Magistrate will take all out efforts to dispose of the maintenance case expeditiously.

(12) It is made clear that unstinted co-operation is expected from both the learned counsel to the learned Judicial Magistrate, Periyakulam to dispose of the Maintenance case at an early date.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate,
Periyakulam,
Theni District.

+1cc to M/s.A.K.Manikkam, Advocate SR.No.46960

Cr1.R.C.(MD)No.580 of 2016

23.08.2016

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SD/SKS-RR/08.09.2016/3P/3C