



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

WEB COPY

CrI.R.C.(MD) No.588 of 2016

and

CrI.M.P.(MD) No.7512 of 2016

Mohammed Farook

... Petitioner / Petitioner /
Respondent

-vs-

M.Faritha Parvin

... Respondent /
Respondent / Petitioner

PRAYER: Criminal Revision Petition is filed, under Section 397 (1) r/w 401 Cr.P.C., to call for the records and set aside the order, dated 11.04.2016, passed in Cr.M.P.No.1079 of 2015 in M.C.No.7 of 2015, on the file of the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam.

For Petitioner: Mr.A.Thiruvadikumar

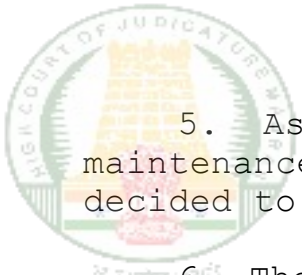
O R D E R

Aggrieved by the dismissal of his Cr.M.P.No.1079 of 2015, which has been filed to condone the delay caused in filing petition to set aside the *ex parte* order passed in M.C.No.7 of 2015, on the file of the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, this revision has been filed by the husband as against his wife.

2. On 23.11.2011, the revision petitioner married the respondent. Thereafter, dispute arose between them. Now, they are living separately. In the circumstances, she filed M.C.No.7 of 2015, against her husband, before the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, seeking maintenance under Section 125 Cr.P.C.

3. On 15.06.2015, the revision petitioner was set *ex parte* and he was directed to pay Rs.3,000/- per month, towards her maintenance, from the date of order. The revision petitioner filed Cr.M.P.No.1079 of 2015, under Section 5 of the Limitation Act, to condone the delay of 40 days caused in preferring a petition to set aside the said *ex parte* order.

4. On 11.04.2016, the said Cr.M.P.No.1079 of 2015 was dismissed for default. As against that, the present revision is filed by the husband.



5. As the point involved is very narrow, as it is a maintenance case, which is to be disposed of quickly, I have decided to dispose of this revision today itself.

6. The learned counsel for the revision petitioner seeks an opportunity to contest the delay condonation petition on merits. However, the revision petitioner has agreed to pay 50% of the arrears of maintenance amount also.

7. In the circumstances, ordered as under:

- (i) The impugned order, dated 11.04.2016, passed in Cr.M.P.No.1079 of 2015 in M.C.No.7 of 2015, by the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, is set aside.
- (ii) Cr.M.P.No.1079 of 2015 shall be restored to file.
- (iii) After giving reasonable opportunity to both sides, the learned Chief Judicial Magistrate shall dispose of the said petition expeditiously.
- (iv) 50% of the arrears amount as on today shall be paid by the revision petitioner to the credit of M.C.No.7 of 2015, before the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, within three weeks from the date of receipt of a copy of this Order.
- (v) On such deposit, the respondent shall be permitted to withdraw the said amount.
- (vi) Accordingly, this criminal revision is disposed of. Consequently, connected criminal miscellaneous petition is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To:

The Chief Judicial Magistrate, Thanjavur, at Kumbakonam.

+One cc to Mr.A.Thiruvadikumar, Advocate, SR.No.48386

krk

RL/3C/2P/SK/SKN/8/9/2016

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