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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

Crl.R.C.(MD) No.245 of 2016

and

Crl.M.P.(MD) No.3177 of 2016

V.Kannan

... Petitioner / Petitioner /
Respondent

-vs-

1.Kasthuri

2.Lavanyasri (Minor)
(rep.by her mother Kasthuri)

... Respondents / Respondents/
Petitioners

PRAYER: Criminal Revision Petition is filed, under Sections 397 and 401 Cr.P.C., to call for the records pertaining to the order, dated 11.03.2016, made in Cr.M.P.No.15 of 2016 in M.C.No.34 of 2014, on the file of the Family Court, Dindugul and set aside the same.

For Petitioner : Mr.A.Chandrakumar

For Respondents : Mr.S.Raja

O R D E R

The fight is between a C.R.P.F. Jawan / revision petitioner and his wife / first respondent. However, there is no fight between the Jawan and his daughter / second respondent.

2. The respondents have sought for maintenance, under Section 125 Cr.P.C., in M.C.No.34 of 2014. Originally, it was filed before the learned Chief Judicial Magistrate, Dindugul and subsequently, it was transferred to the Family Court, Dindugul.

3. On 20.01.2015, the revision petitioner was set ex parte and the respondents were awarded Rs.4,000/- per month, from the date of filing of the maintenance petition.

4. To set aside the said ex parte order, the revision petition was filed before this Court on 11.03.2016. However, it was dismissed on 11.03.2016. As against that, this revision is filed before this Court.



5. In this revision, on 13.04.2016, this Court directed the revision petitioner to deposit Rs.50,000/- towards arrears of maintenance. Accordingly, he has deposited and it is in Court deposit.

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6. The learned counsel for the revision petitioner submitted that the revision petitioner has engaged a lawyer to conduct the case on his behalf. He may be given an opportunity to contest the case on merits.

7. The learned counsel for the petitioner further submitted that the revision petitioner is not intended to protract the enquiry. He has engaged a lawyer to take care of his interest in the case. Petitioner is serving in Assam. However, the Trial Court directs him to present in the Court on every hearing. If absolutely his presence is necessary, he will certainly appear before the Court.

8. The learned counsel for the respondents submitted that the respondents are ready to meet the revision petitioner's case on merits. However, they shall not be deprived of financial assistance.

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

10. When a lawyer is permitted to represent the revision petitioner in the maintenance case, his presence is not necessary, when especially he is serving in Assam and when the case is only posted for ordinary hearing, his presence need not be insisted upon. However, when it is posted for payment of maintenance amount and if the husband purposely avoids, the Court can direct him to appear. The Family Court's Judge can regulate the proceedings before him. He is the master of the proceedings. He is the Judge on the spot. He has to decide the need and necessity of the presence of the husband in the Court. However, for every hearing if a lawyer is permitted, the lawyer should present. If no longer is permitted, some responsible and authorised person on behalf of the husband has to be present in the Family Court.

11. In the facts and circumstances, an opportunity should be given to the revision petitioner. But, at the same time, the respondents should not be financially incapacitated till the disposal of the main maintenance case.

12. Ordered as under:

<https://hcservices.ecourts.gov.in/hcservices> (i) This revision is allowed.

(ii) The impugned order, dated 11.03.2016, passed in Cr.M.P.No.15 of 2016 in M.C.No.34 of 2014, by



the learned Judge, Family Court, Dindugul, is set aside.

(iii) M.C.No.34 of 2014 shall be restored to file.

(iv) After giving reasonable opportunity to both sides, the learned Judge, Family Court, Dindugul, shall dispose of the maintenance case expeditiously.

(v) The respondents are permitted to withdraw the amount deposited by the revision petitioner before the Trial Court.

(vi) Till the disposal of the maintenance case, by way of interim measure, the revision petitioner shall continue to pay maintenance at the rate of Rs.4,000/- (Rupees four thousand only) to each of the respondents on or before the 5th of every English Calender month.

(vii) However, in case the learned Judge, Family Court, Dindugul, grants maintenance to the respondents, the said amount shall be adjusted as against the maintenance amount.

(viii) Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To:

The Judge,
Family Court,
Dindugul.

+1cc to M/s.A.Chandrasekar, Advocate SR.No.48435

+1cc to M/s.S.Raja, Advocate SR.No.49052

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and

Cr1.M.P.(MD) No.3177 of 2016

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