

THE HON'BLE SRI JUSTICE RAJA ELANGO

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CRIMINAL REVISION CASE No.126 OF 2016

ORDER:

This Criminal Revision Case is filed by the petitioner, challenging the order, dated 15.12.2015 passed in Crl.M.P. No.1596 of 2013 in M.C. No.10 of 2012 by the Additional Judicial Magistrate of First Class, Kalvakurthy, whereby the learned Judge dismissed the application of the petitioner.

The 1st respondent is the wife and the 2nd respondent is the son of the petitioner. They filed M.C. No.10 of 2012 before the Court below seeking maintenance at Rs.15,000/- per month to the 1st petitioner and Rs.5,000/- per month to the 2nd respondent. The trial Court passed an ex parte order, dated 14.05.2013, directing the petitioner to pay Rs.6,000/- p.m. to the 1st respondent and Rs.4,000/- p.m. to the 2nd respondent. Aggrieved over the above said ex parte order, the petitioner filed Crl.M.P. No.1596 of 2013, before the Court below. The said application was dismissed by the Court below for default, through the impugned order.

Heard and perused the material available on record.

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Learned counsel for the petitioner submitted that the Court below dismissed the application filed by the petitioner to set aside the ex parte order passed against the petitioner on the ground that the petitioner was absent. He further submitted that the said application was coming up for counter by the respondents and the Court below without giving an opportunity to the petitioner, dismissed the said application. He further submitted that the respondents filed DVC No.125 of 2010 and the same was ended by order, dated 27.02.2012 directing the petitioner to pay Rs.5,000/- per month to the 2nd respondent towards his medical expenses and also to pay

Rs.1,00,000/- towards compensation to the respondents 1 and 2 and the petitioner is complying with the above orders. The 1st respondent has also filed OP No.8 of 2012 and in that OP, the 1st respondent filed her chief examination affidavit along with the ex parte order in M.C. and then only, the petitioner came to know about the orders passed in the MC and immediately, he filed the impugned application to set aside the ex parte order, but the Court below without considering the reasons stated by the petitioner, dismissed the said application.

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Having regard to the facts and circumstances of the case, without expressing any opinion on the merits of the case, this Criminal Revision Case is disposed of with the following directions:

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The order, dated 15.12.2015, passed in Crl.M.P. No.1596 of 2015 in M.C. No.10 of 2012, by the Additional Judicial Magistrate of First Class, Kavlakurthy, is set aside and M.C. No.10 of 2012 is restored to file. The learned trial Judge is directed to pass appropriate orders on the above M.C., after hearing the parties.

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Accordingly, the Criminal Revision Case is disposed of. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

January 19, 2016
KTL