

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2017

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

Criminal Revision Case No.1319 of 2017
& Crl.M.P.No.12835 of 2017

Mr. K.Sekar

... Petitioner/Petitioner/Respondent

...Vs...

1. Rajeshwari
2. Minor. Janani
3. Minor. Rajashekar
(Minors are rep. by natural guardian
and mother, R-1, Rajeshwari)

... Respondents /Respondents/Petitioners

Criminal Revision Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to set-aside the order, dated 27.12.2016 passed in Crl.M.P.No.4528 of 2016 in M.C.No.6 of 2012 on the file of the learned District Munsif cum Judicial Magistrate, Nannilam.

For Petitioner : Mr. M.Tamizhavel

O R D E R

The wife and the two minor children have filed the application for maintenance against the revision petitioner herein in M.C.No.6 of 2012 before the learned District Munsif cum Judicial Magistrate, Nannilam. The husband has been set exparte. Subsequently, the husband has filed an application in C.M.P.No.4548 of 2016 in M.C.No.6 of 2012 seeking to set-aside the exparte order, dated 26.02.2016. This application has been contested by the wife and children on the ground that the allegation of cruelty made by the husband is not correct and therefore, the exparte order cannot be set-aside. The learned District Munsif cum Judicial Magistrate, Nannilam, felt that substantive justice could be done only by deciding the case on merits and not by not hearing the case of the husband. Therefore, the Court was of the opinion that subject to the conditions, the exparte order should be set-aside and accordingly, it came to be set-aside. The Court has specially made a note that, for the past four years, the husband did not pay any maintenance to the wife and the two children and

therefore, the Court has directed the husband to pay a sum of Rs.3,000/- per month, at the rate of Rs.1,000/- to each of the claimants, for the period from 08.08.2016 to 08.12.2016 (for a period of four months) at Rs.12,000/- and this amount shall be paid on or before 05.01.2017 and the husband was also directed to pay the future maintenance amounts, without any default. Without complying with the said conditional order passed by the Court below, this Revision Petition has been filed before this Court by the husband / petitioner herein.

2. The learned counsel appearing for the husband / revision petitioner concedes that the amount of maintenance and the arrears of maintenance, as ordered by the learned District Munsif cum Judicial Magistrate, Nannilam, has not been paid either before 05.01.2017 or even thereafter. Without paying the interim maintenance, as ordered by the learned District Munsif cum Judicial Magistrate, Nannilam, this Revision Case has been filed.

3. Admittedly, the revision petitioner herein is a Senior Grade Driver employed in the Tamil Nadu State Transport Corporation Limited. When the Court has passed an order giving indulgence to the petitioner herein (husband), by granting an opportunity for further hearing, the husband, without appreciating the indulgence shown and without complying with the order, has chosen to challenge the order, by filing this Revision.

4. Under the said circumstances, the husband is directed to comply with the order passed by the learned Magistrate on or before 30.11.2017. This would not exonerate the husband from paying the maintenance for the future dates, unless and until the quantum of maintenance is finally decided after hearing both sides. If there is failure in complying with the order passed by this Court also, the revision petitioner would not be entitled to the benefits of the orders passed by the learned Magistrate, dated 27.12.2016.

5. With the above directions, this Criminal Revision Case is disposed of. No costs. Consequently, the connected CrI.MP is closed.

Sd/-

Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

srk

To

1.District Munsif cum Judicial Magistrate,
Nannilam.

+lcc to Mr.M.Thamizhavel, Advocate SR.No.78753

Crl.R.C.No.1319 of 2017
& Crl.M.P.No.12835 of 2017

CA (CO)
GN (18/01/2018)



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